



City North Liquor Accord – Liquor Law Review Submission

About the City North Liquor Accord

The CNLA is a non profit, incorporated body led by a team of voluntary committee members who represent the members of the Accord within the City North LAC. We are all venue Owners and Operators and the purpose of the Accord is to liaise with key industry stakeholders on strategy creation and proactive management tactics to reduce alcohol related issues and antisocial behaviour within our precinct.

Who we represent

The CNLA has approx 500 licensed venues and outlets within the Accord boundaries with 380 registered members.

Our submission

The CNLA welcomes the opportunity to provide a submission on the Liquor Law Review as previously we have not been consulted prior to policy making coming into place.

Whilst we have been informed that the primary purpose of the review was to consider the impacts of the 1:30am lock outs and 3am cessation of liquor service, we feel the need to ensure that you are aware they form part of a much larger suite of measures implemented in the CBD and Kings Cross Entertainment Plans of Management via special conditions imposed on all licences.

These special conditions include:

- 1:30am lock out and 3am cessation of alcohol service
- Round the clock incident register maintenance
- Crime scene preservation and notifications of assaults to police
- A ban on high risk drink promotions
- No glass serving vessels after midnight based on a venue's compliance history
- Exclusion of wearing OMCG colours of insignia
- Drink limits per person after certain times (4 after 12am, 2 after 2am)
- Ban on certain drink types post midnight (no shots, no neat spirits, cocktails must be listed)

1:30am Lock out

The introduction of the 1:30am lock out had an immediate impact on patron migration throughout the CBD and more dramatically on the Kings Cross precinct. Councils Late Night Management Areas Research Phase 4 Report details that between 2012 -2015 foot traffic is down in the CBD by 26% since 2012 and down by 84% in Kings Cross. In addition it is important to note that this drop in migration to The Kings Cross precinct has also led to 42 bars, clubs and small business closures and those that are left are persevering to hold onto their investments to avoid losing their homes.

It has been claimed that since February 2012, patron displacement and incidents in the surrounding suburbs has not been statistically significant meaning that the lock outs, put simply, are locking out potential patrons from fully supervised venues and pushing them onto the streets with insufficient monitoring leading to the potential for incidents and assaults.

Any claim made that the 1:30am lock out law has led to a reduction in associated incidents, needs to be measured against the drop in patron foot traffic within the effected CBD and Kings Cross precincts. Considering the lock out and the reduction in trading hours to 3am, it would be disastrous to see that assault rates were not in decline.

Effect on Business



City North Liquor Accord – Liquor Law Review Submission

The dedicated venues in the live music and entertainment industry rely solely on the sale of food and beverages as well as (where appropriate) door sales in the form of cover charge or ticket sales, to produce the revenue in order to pay for their entertainment bookings amongst other operating costs.

Locking people out of venue's at 1:30am has also had a reduction in the ability for an entertainment venue to continue to charge patrons entry up until the 3am closure of business where it becomes uneconomical to continue to trade, although they may have approval. The Live Music Industry has reported a drop in door takings up to 40% in the Kings Cross and CBD precinct. This reduction in door charge is also leading to reduced times in which venues can afford to book and pay entertainers.

Reducing the offering available across the precincts is having a catastrophic impact on the once vibrant and cultural industry that was present pre the lock outs being implemented, and considering how a Hotel can apply to allow entry to someone to play a poker machine, hardly supports the cultural vibrancy of an international city.

Major Event Management

Across the globe, major events require meticulous management plans focused on patron harm minimisation. New Years Eve, 2014 and 2015 were perfect examples of Major Event execution where all the governing bodies form a patron plan of management. On both of these occasions lock out laws were relaxed allowing patrons to enter or re-enter a venue post 1:30am, there was ample public transport options for patrons and additional policing resources allocated to cope with the volume people attending the event.

Every weekend night and Sunday of long weekends in the Kings Cross and CBD precinct represents a major event. These are the two nights where licensed premises and patrons come together in the largest numbers and with it comes a need for a structured plan of management to ensure the vibrancy and safety of this major event. If the same approach was taken by the governing bodies to each weekend, there would be no need for lock outs and people would be free to sample the multiple offerings available in the entertainment precincts into the later parts of the evening.

Recommendation #1

We recommend that the 1:30am lock out provision be removed across the industry as a whole, and targeted towards venues falling under Schedule 4 Level 1 of the Liquor Act, if it has a proven history of on-premise violence.

3am Cessation of Alcohol Service

Adding to an already downward trend in alcohol related incidents pre 2014, the cessation of alcohol service has been a major contributor to the reduction in alcohol related incidents. Adding to the fact that patrons outside venues at 1:30am have no options to loiter, go home, or go the Casino, shutting venues down across the CBD at 3am would naturally lead to fewer issues within our precincts.

The CNLA supports the cease service provisions however believes that dependant on a venues compliance history and business type, applications for exemptions to trade until 4am, subject to displaying sufficient management strategies and additional harm minimisation measures to ensure the safe operating of the venue. Considering that sufficient train services are not operational until after 5am, this strategy will assist in staggering patrons onto the street over a slightly longer period of time placing less strain on transport options and thus reducing the opportunity for antisocial behaviour.

It is also pertinent to point out that that the peak times for anti-social behaviour and incidents occur between 1am - 5am which coincides with the lock out of patrons from venues, the closure of all licensed venues in the CBD and Kings Cross area and the re-engagement of adequate transport. The forced closure of all licensed venues at 3am is spilling everyone onto the street and public domain at the same time placing further pressure on already stretched transport options.



City North Liquor Accord – Liquor Law Review Submission

Recommendation #2

We recommend that venues with a proven safe history and that can demonstrate sufficient additional Harm Minimisation methods through plans of management and additional training to mitigate the risk with later trading, are given the opportunity to apply for an exemption to Liquor and Gaming NSW to trade until 4am. This would allow better patron supervision where policing resources are stretched and to stagger the volume of patrons being moved into the public domain on masse, reducing the demand for transport and the threat of antisocial behaviour.

Periodic Liquor License Fee Scheme

Members of the CNLA understand that the introduction of the scheme was to ensure that licensed venues made a fair and reasonable contribution to the costs of regulating the industry and that the fees collected on a yearly basis were to go towards additional officers to regulate and enforce industry standards.

We struggle to find another industry that has to pay an additional levy on top of already existing licensing fees for governance.

Generally the amounts have been accepted by members and accommodated in yearly budgets, however additional risk based loadings for late trading, compliance history, location and patron capacity, have been fiercely opposed.

The introduction of this scheme in addition to the Three Strikes Disciplinary Scheme and Entertainment Precinct Plans of Management has come at a time where all later trading venues are experiencing drops in patron visitation and trading hours through the 1:30m lock out and 3am cease service provision, thus placing drastic financial pressure on venue owners.

Late Trading Loading

- Venues that trade between 12am and 1:30am incur an additional \$2500 in fees
- Venues that trade after 1:30am incur an additional \$5000 in fees

We are of the opinion that this fee should be removed from the scheme. If it were to remain, one fee should be established and placed upon all licensed venues trading past 10pm. According to BOSCAR data, the risk period is from 10pm-5am Friday and Saturday nights. This would ensure an even playing field for all venues.

Recommendation #3

Late night loading fee should be broader based for any business that trades after 10pm in accordance with the risk data from NSW BOSCAR. All revenue raised from any late trading loading should be specifically allocated to providing a visible police presence and infrastructure on the streets in the late trading areas especially given NSW BOSCAR data reports significantly higher assault rates in the public domain than on licensed premises.

Compliance History Risk Loading

If a venue receives a penalty notice, they are already paying an \$1100 fine up to a maximum \$11 000 per offence. To then additionally apply a \$3000 loading for one offence, \$6000 for two offences or \$9000 for three offences, payable every year for 3 years places an unfair and onerous cost burden on the business.

CNLA doesn't not support the level and timeframe in which these additional fees are applied, but suggests that the penalty notices of \$1100 remain as the financial punishment for the offence.

CNLA also recommends that only serious breaches of the Liquor Act attract the loading, and not those that have no effect on patron safety.

Recommendation #4

That the maximum compliance history loading fee is in line with the penalty notice at \$1100, and that it is only applied for breaches considered as serious under the Liquor Act and not minor or administration offences.



City North Liquor Accord – Liquor Law Review Submission

Prescribed Precinct Location Risk Loading

In the instance where a venue has a Compliance History Risk Loading, an additional \$2000 is added due to the location of the venue within the CBD and Kings Cross precincts and does nothing in the interest of patron safety.

Recommendation #5

CNLA does not support Prescribed Precinct Location Risk Loading; we are of the belief that this is discriminatory towards venues within the precincts.

Patron Capacity Risk Loading

It is how a venue is managed in accordance to the Liquor Act, not patron capacity that is the real risk. Under all the schemes in place a minor breach over an administration error in keeping an incident register up to date, would result in an additional loading fees of up to \$8000 for a venue. Sitting on a license for 3 years the financial burden would only be passed onto customers, driving the price of food and beverage up, or leading to business closure. Considering the issue of pre-fuelling that is faced with younger drinkers, forcing venues to pass on onerous and excessive fees to patrons leads to off premises price attractiveness and public space drinking.

Recommendation #6

CNLA does not support Patron Capacity Risk Loading linked to compliance risk loading and recommend that the risk loading is reviewed in its entirety. We believe that continually targeting venues with increased potential costs will lead to smaller investments into the night time economy and ultimately lead to the demise of the industry and cultural vibrancy of Sydney, severely damaging our reputation on a global level.

Three Strikes Policy Scheme

The Three Strikes Disciplinary Scheme commenced on 1 January 2012. It allows for "strikes" to be incurred by a liquor licence where a licensee or approved manager is convicted of a serious offence under the Liquor Act 2007.

These offences prescribed in the Act include:

- *permitting intoxication on licensed premises*
- *permitting indecent, violent or quarrelsome conduct on licensed premises*
- *selling or supplying alcohol to an intoxicated person or a minor*
- *allowing alcohol to be sold or supplied to a minor on licensed premises*
- *permitting the use or sale of substances which a licensee or manager suspects are illicit drugs*
- *not complying with a direction issued by the Secretary to a licensee or staff*
- *selling or supplying alcohol outside of authorised trading hours*
- *non-compliance with a closure order issued under the Liquor Act to prevent or reduce a significant risk to the public interest where there are serious breaches of the Act, and*
- *a breach of key liquor licence conditions applying to violent venues listed in schedule 4 of the Liquor Act, or conditions imposed on a venue that has incurred strikes.*

The defendant for these offences is the licensee or the approved manager.*

When a strike is incurred on a business, it triggers increased fees payable under the Risk Based Licensing Scheme payable for a period of three years. This is a large and in some instances catastrophic cost to business.

We would suggest that any the scheme operates for a minimum of one year, with the venue given the opportunity to prove they have improved operations and are not likely to incur another offence. Within the Three Strikes Register, of the 136 first there are 12 venues with strikes for failing to maintain an incident register, 14 for selling alcohol to a minor, 30+ for permitting intoxication with the vast majority of strikes incurred for selling alcohol outside of authorised hours.



City of North Liquor Accord – Liquor Law Review Submission

If you refer back to the offences prescribed under the Act that were to incur a strike, failing to maintain a register hardly compares to those of a more serious nature which directly affect patron safety, yet attracts the same financial burden through the scheme as those offences that are blatant breaches of the law.

Recommendation #7

CNLA recommends strikes are only incurred for serious breaches of the Liquor Act and not minor offences, and if the strike is to be associated with the compliance history loading, that it only operates in the year the offence was committed and does not impose on the venue for the period of three years that the strike remains on the licence.

Transport

Up until 1am public transport options into the city are plentiful from all corners of the Sydney catchment. Then they stop. The last train at Circular Quay is 1:17am, 13 minutes before those on the street are locked out of every venue in the precinct. Like with any major event exiting patrons require the same method of getting home as they did to arrive, so if we make a concerted effort to get everyone into one place, not having sufficient resources to remove those patrons at the same or at least a relatively comparable rate will only lead to issues.

Picture trains running 40mins late after a full ANZ Stadium (circa 80,000) exits to the transport options. Chaos. Getting people out of a condensed area on mass is vital to the success of any event.

When trains run through the night in the CBD like previously mentioned New Years Eve events, the rates of assaults are dramatically reduced, and police report that the availability of these options help to disperse the crowd quickly through the CBD to their destination rather than having to pay for expensive taxi's or if late night buses are not available.

We would also like to point out that the Victorian Government pledged circa \$85m to trial 24 hours trams on particular arterial lines to ensure those in the CBD had an affordable method of getting home.

Recommendation #8

CNLA recommends that the Government undertake a 6 month trial of 24 hours trains through the CBD and Sydney Suburb lines on a Saturday night. Or, restart the trains at 3:15am instead of current 5am to coincide with the closure of the venues in the CBD.

Accredited Industry Training for Licensees

Currently there is no standard and accredited industry training for licensees which is leading to less experienced operators. Given the raft of conditions placed on venues through the previously mentioned schemes and plans of management and the complexities in running a licensed venue in accordance with community expectations and under the Liquor Act, we recommend that mandatory accredited training be introduced. A suitable body needs to be appointed with delivering accredited licensee training.

Recommendation #9

CNLA recommends that a suitable body be appointed to work with industry and regulatory bodies to develop and deliver a certified training program for potential licensees with agreed standards on compliance and patron management.

Mandatory Accord Participation

Local Accords are the conduit between venues and the authorities. Accords are led by industry professionals and in most instances operators with 20+ years of experience. Meetings are targeted towards a constructive environment where strategies are discussed and agreed focusing on current issues.

Put simply, it is our view that all venues and outlets that sell Liquor are part of the local industry and must be members of their local Accord so that as a collective, issues can be managed with governing bodies and strategies can be forged to minimise alcohol related issues and negative impacts on the community.



City North Liquor Accord – Liquor Law Review Submission

Recommendation #10

CNLA recommends that Accord membership, in all areas of the City of Sydney LGA and in other major population centres, be made mandatory through an amendment to the Liquor Act and as a condition on all DA's upon renewal. This will ensure participation by all licensed venues and outlets so they remain informed and collaboratively work towards constructive strategies and in support of the local community.

Patron Responsibility

The vast majority of the special licensed conditions are targeted at licensed venues and operators; we believe that there also needs to be a shift in patron responsibility and accountability for actions. NSW BOSCAR Data shows that in the CBD area assaults rates are almost three times more prevalent in the public domain than in licensed venues. Patrons in venues are being monitored and managed by security and RSA trained personnel, whereas in the public domain they are not. In the absence of sufficient and visible Policing, there are a small percentage of people using the Entertainment precincts that seem to have total disregard for the safety of others. We believe that a zero tolerance policy for antisocial behaviour should be implemented to more effectively deliver the message that violence will not be tolerated under any circumstances, along with appropriate fines and/or community service. In addition a state wide campaign needs to be undertaken by the NSW Government to ensure that the law is adequately explained and the expectations are set. It would also be of value to ensure that this messaging forms part of the high school curriculum.

Recommendation #11

CNLA recommends that (i) Additional high visibility policing be increased and that the late night economy is managed as a weekly major event providing the appropriate resources to police to implement a zero tolerance approach to violence. To support this, the courts need to enforce the appropriate fines or community service and remove section 10 dismissals for alcohol related offences. (ii) That the NSW Government develop and undertake a public education campaign covering all major elements including refusal of entry, responsible service, drink restrictions, failure to quit, banning orders and personal responsibility.

The CNLA appreciates the opportunity to make a submission and is available for further questioning or comment if required.

Simon Barbato
President City North Liquor Accord

