



Submission by Keep Sydney Open (KSO)
Review of the *Liquor Amendment Act 2014* by the Hon. IDF Callinan AC
QC
4 April 2016

Submitted to:

Liquor Law Review
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“The voluntary act of drinking until intoxicated should be regarded as a deliberate act taken by a person exercising autonomy for which that person should carry personal responsibility in law”.¹

About Keep Sydney Open

Keep Sydney Open (**KSO**) is an association of Sydney live music and performance venues, cultural organisations, artists and music industry stakeholders originally brought together to highlight the unfair imposition the 2014 amendments to the *Liquor Act 2007* (**Act**) have had on those who work and play in this city.

Since then, KSO has become the foremost advocacy group aiming to replace the lockout laws, offering the public a clear voice. We have also broadened our focus to improving other aspects of Sydney’s night-time economy, earning an invitation from the NSW Government to its roundtable discussions on this matter.

Introduction

KSO welcomes the opportunity to comment on the independent review of the impact of liquor law reforms.

As a growing, diverse and vibrant city, Sydney nightlife has much to offer its residents and visitors. The city’s night-time offerings have made it a leading tourist destination in the Asia-Pacific, contributing to its international reputation as a Global City and bringing considerable economic opportunities to the state.

However, it is undeniable that Sydney’s night time economy (**NTE**) has suffered from mismanagement. Over the last decade, Sydney saw a significant increase in the number of people visiting the three main areas of the city – Kings Cross, the CBD and Darling Harbour – on a Friday and Saturday night. Despite the increase in foot traffic, however, venues were left without the support and resources needed to cope with these large volumes.

Public concern over alcohol-related violence surfaced in the wake of Daniel Christie’s death as a result of a fatal punch on 31 December 2013. This followed perceived inadequacy of the four-year prison sentence imposed upon the offender who fatally punched Thomas Kelly in July 2012.

¹ *Cole v South Tweed Heads Rugby League Football Club Ltd & Anor* [2004] HCA 29 at 121.

It is important to note that despite the occurrence of these two tragic crimes, the city as a whole was witnessing a steady decline in rates of crime and alcohol-related violence.²

The government's response in introducing the main reforms in the *Liquor Amendment Act 2014* was misconstrued and reactionary. Further, it was done without **any consultation** with the members of the community most affected by these laws – in flagrant denial of procedural fairness and against all indicators of good public policy. Instead of tackling the problem with evidence-based strategies, the Government chose to penalise everyone for the behaviour of a few.

Sydney's NTE deserves a fair-go.

In this submission, KSO puts forward **7 key actions** which, if implemented together, can achieve the goals of the lockdown laws without the severe unintended consequences those laws have had on our city. Those evidence-based actions are:

1. Developing best-practice **policing** strategies;
2. Investing in 24/7 public **transport**;
3. Implementing integrated urban **planning reform**;
4. Encouraging diversification of **after-dark activities**;
5. Establishing anti-violence **education & intervention campaigns**;
6. **Incentivising well-run venues**; and
7. Appointing a **Night Mayor**.

KSO's **recommendations** in respect of the lockdown laws are:

1. Removal of the 1:30am lockdown;
2. Removal of the restriction on 10pm take-away liquor sales;
3. Removal of the blanket 3:00am cease of service to be replaced with restricted or extended hours on a case-by-case basis; and
4. Removal of the existing liquor freeze.

This submission will first address the limited statistical evidence of a positive impact of the lockdown laws on public safety. It will then look at the significant negative economic, social and cultural impact of the lockdown laws on industry and the community before providing further detail on the 7 key actions above.

Impacts of the lockdown Laws

1. Questionable positive impact on public safety

² Page 2 of the Second Reading Speech to the *Liquor Amendment Act 2014*.

The area of greater Sydney is home to approximately 4.92 million according to ABS statistics, a significant percentage of which travel into Sydney each week to enjoy the nightlife. Based on BOCSAR statistics, alcohol related assaults have decreased in Sydney CBD and King Cross by 10 assaults each week since the introduction at the lockdown laws.³

Publicly available statistics do not accurately quantify the impact of the lockdown laws on alcohol-related violence. In fact, the Director of the Bureau of Crime Statistics and Research (**BOCSAR**) has criticised the NSW Premier for using misleading statistics to defend the success of the lockdown laws - *"Mr Baird had compared the situation directly before and after the lockdown laws were introduced in February 2014, but assaults had already been declining since 2008."*⁴

As at the date of this submission, there is no causal link between the lockdown laws and the reported decreases in violence:

- BOCSAR's April 2015 report on the impact of the lockdown laws on assaults specifically concluded that although the lockdown laws appear to have reduced the incidence of assaults *"[t]he extent to which this is due to a change in alcohol consumption or a change in the number of people visiting the Kings Cross and Sydney Entertainment Precincts remains unknown"*.⁵
- BOCSAR's April 2015 report assessed the effect of the lockdown laws and other measures such as temporary banning of troublemakers and risk-based licensing fees. KSO supports these measures but does not support their impact being considered in assessing the appropriateness of the lockdown laws on their own.⁶
- BOCSAR's 16-month findings show that there is a 45.1% reduction in the Kings Cross precinct and a 20.3% reduction in the broader Sydney CBD Entertainment Precinct.⁷ There is a 1.4% reduction in the rest of NSW which could actually indicate an increase (since there was a general downward trend in violence in any case).

³ Menendez, Weatherburn, Kypri and Fitzgerald, Lockouts and Last Drinks: The impact of the January 2014 liquor licence reforms on assaults in NSW, Australia, Crime and Justice Bulletin No. 183 (April 2015) available online at <http://www.bocsar.nsw.gov.au/Documents/CJB/CJB183.pdf>.

⁴ Olding, R, 'Mike Baird using misleading stats to back Sydney's lockdown laws: Weatherburn', Sydney Morning Herald (11.02.16) available online at <http://www.smh.com.au/nsw/mike-baird-using-misleading-stats-to-back-sydneys-lockout-laws-weatherburn-20160210-gmq7bl.html>

⁵ Menendez, Weatherburn, Kypri and Fitzgerald, Lockouts and Last Drinks: The impact of the January 2014 liquor licence reforms on assaults in NSW, Australia, Crime and Justice Bulletin No. 183 (April 2015) available online at <http://www.bocsar.nsw.gov.au/Documents/CJB/CJB183.pdf>. This report reviewed the impact of the lockdown laws and temporary banning orders for 'trouble makers' so its findings do not solely assess the impact of the lockdown laws.

⁶ Ibid at 8

⁷ Lockouts and Last Drinks – Forthcoming findings released by BOCSAR available online at http://www.bocsar.nsw.gov.au/Pages/bocsar_news/Lockouts-Forthcoming-Research.aspx

- The BOCSAR figures appear to measure the change in assaults but not the change in pedestrian traffic (i.e. pedestrians and people at venues).⁸ That is, the figures might show a reduction in assaults but this might simply be because people choose to avoid going out altogether. There is no evidence that the lockdown laws have reduced the *percentage risk* of an assault.
- The City of Sydney's report⁹ of pedestrian counts showed that "[p]edestrian numbers have decreased in almost all precincts. The exceptions were Newtown and South CBD".¹⁰ The report went on to state that Newtown experienced increases in peak pedestrian counts between 2012 and 2015 across Friday and Saturday nights.¹¹
- The City of Sydney's report also observed that an 80% decrease in anti-social behaviour late at night between 2010 and 2015 (including a 64% decrease in anti social behaviour between 2010 and 2012, prior to the introduction of the lockdown laws).¹²
- As Professor Kypros Kypri has argued, lockdowns as a sole measure are not effective, it is the ceasing of service that matters.¹³ There is also a real question as to whether there is more alcohol-related violence when the curfews apply (and whether the curfew will simply make people drink earlier);
- The BOCSAR figures do not take into account the temporal nature of the assaults. The 1.30am and 3:00am timings disregard the fact that:
 - Thomas Kelly was fatally assaulted at around 10pm¹⁴;
 - Daniel Christie was fatally assaulted at around 9pm¹⁵;
 - In a recent case, Kelvin Kane was fatally assaulted at around 9pm¹⁶; and

⁸ For example, see the BOCSAR April 2015 Report referred to at 9.

⁹ Late Night Management Areas Research: Phase 4 Report (September 2015) commissioned by the City of Sydney, Urbis and Austraffic available online at http://www.cityofsydney.nsw.gov.au/__data/assets/pdf_file/0011/250202/2015-541941-Report-Late-Night-Management-Areas-Research-Final.pdf.

¹⁰ Ibid at 14.

¹¹ Ibid at 19.

¹² Late Night Management Areas Research: Phase 4 Report (September 2015) commissioned by the City of Sydney, Urbis and Austraffic at 27

¹³ K Kypri, 'Comment: 'Last-drink' laws, not lockdowns, reduce alcohol-fuelled violence' 8 January 2016 on [SBS.com.au](http://www.sbs.com.au) available at <http://www.sbs.com.au/news/article/2016/01/08/comment-last-drink-laws-not-lockdowns-reduce-alcohol-fuelled-violence>

¹⁴ R v Loveridge [2014] NSWCCA 120 at [24] – [28]

¹⁵ R v McNeil (No 4) [2015] NSWSC 1198 at [7] – [10]

¹⁶ R v Field [2014] NSWSC 1797 at [47] to [69]

- Other assaults not yet on trial that involve violence at an early hour.¹⁷

As at the date of this submission, there is limited information available concerning displacement of alcohol related violence:

- There is no detailed information regarding displacement, including changes in the number of people that drink elsewhere and the percentage risk of assault. There is also no available analysis on whether the lockdown laws promote greater drinking within the home and contribute to domestic violence.
- Although BOCSAR's 16-month findings show a 1.4% reduction in assault numbers in the rest of NSW, this reduction appears to be negligible and, in view of previous downward trends, this figure might be evidence of displacement. In November 2013, the 124-page Statutory Review of the Act¹⁸ (2013 Review) showed downward trends in alcohol-related assaults in Campbelltown (43%), Penrith (46%) and the Sutherland Shire (45%).¹⁹
- The evidence that there was no displacement of violence following the introduction of similar measures in the Newcastle CBD is unpersuasive. BOCSAR's April 2015 report states *"more importantly, drinkers unable to consume alcohol in the Kings Cross and Sydney CBD Entertainment Precincts only have to travel a short distance to reach licensed premises unaffected by the restrictions ... Drinkers in Newcastle showed no propensity to travel to Hamilton (a nearby suburb without the same liquor license restrictions) but the range of alternative licensed venues is far larger in Sydney than in Newcastle."*²⁰
- Having regard to the lack of publicly available data, we have made a number of GIPA requests to institutions such as the Prince of Wales Hospital, Royal Prince Alfred Hospital and Kings Cross Police Station, copies of which are at **Appendix 1** to this submission. As at the date of this submission, no responses have been received.
- The Star Casino (which is not within an area that is subject to the lockdown laws) has seen an increase in the number of assaults since the lockdown laws were introduced.²¹ This increase, which is shown in the graphic below, infers that

¹⁷ For example, see Spicer, D, 'Man dies after one-punch attack at Grosvenor Hotel in Waterloo, Sydney', Sydney Morning Herald (7 October 2015) available online at <http://www.abc.net.au/news/2015-10-07/man-arrested-over-one-punch-death-at-waterloo-pub/6833344>.

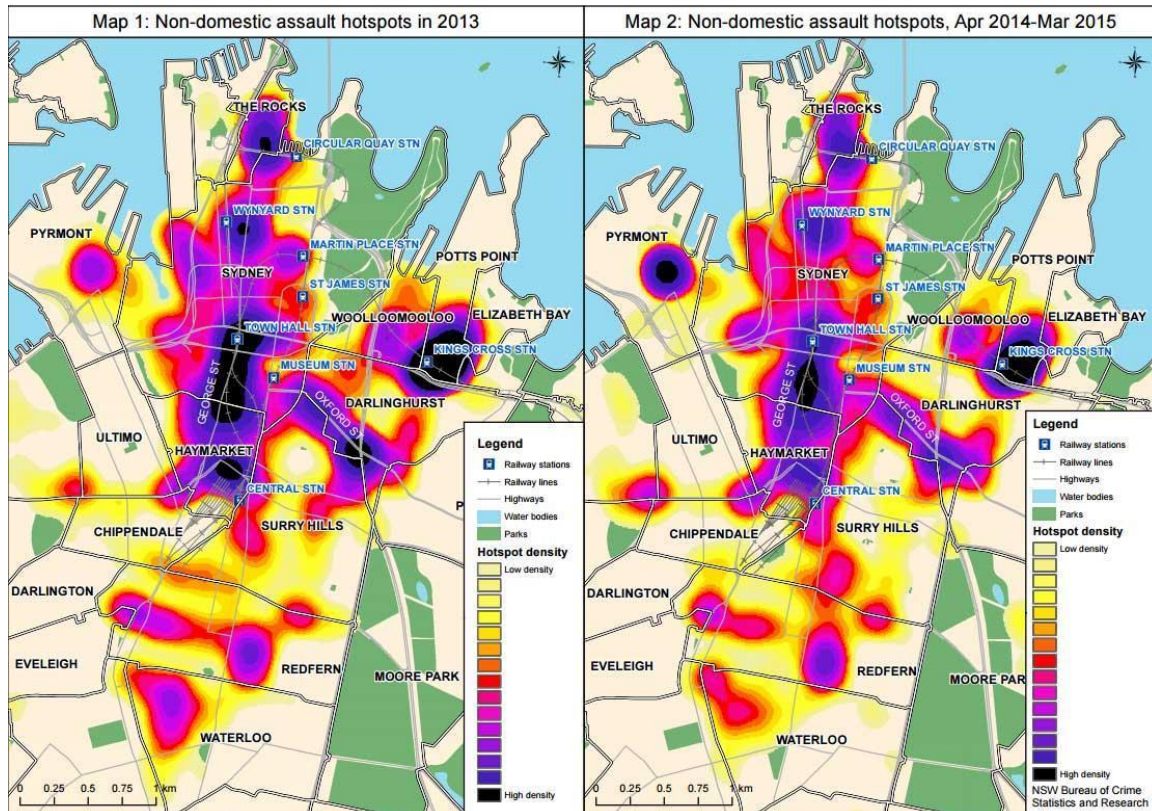
¹⁸ Available at: https://www.nsw.gov.au/sites/default/files/Review_LA_GALAA_NOV2013.pdf

¹⁹ This followed measures such as restrictions on shots, the use of glass and the implementation of other public safety measures.

²⁰ See Note 9

²¹ For example see Nicholls, S 'Star City may be the most violent venue but exempt from restrictions' at Sydney Morning Herald (21 April 2015) available online at <http://www.smh.com.au/nsw/star-casino-may-be-the-most-violent-venue-but-exempt-from-restrictions-20150420-1morb6.html>

alcohol-related violence is being displaced. If the lockdown laws are maintained in their existing form, the rationale for their introduction ought to be the rationale for their application to the Star and Barangaroo.²²



These statistics should have been available when the lockdown laws were introduced, and they certainly should be available now. The 2013 Review stated that *“it is appropriate for any regulatory response to be evidence based and tailored to the circumstances, rather than applying a standard set of conditions that may not address specific issues or could result in unintended outcomes”*.²³ The lockdown laws did not take a tailored approach – the 2014 amendments were passed hurriedly, without changes, by the lower and upper house on the same day.²⁴

²² This graphic is extracted from BOCSAR. Interestingly, in a recent interview on NOVA 969, Mike Baird said that “we are open to measures that we may need to introduce there [at the Star]”. A copy of the interview is available online at <http://www.nova969.com.au/fitzy-wippa/premier-mike-baird-lockout-laws>.

²³ Page 59 of the 2013 Review, available at https://www.nsw.gov.au/sites/default/files/Review_LA_GALAA_NOV2013.pdf. The review made Recommendations 30 and 31 which supported targeted approaches to the reduction of alcohol-related problems and expressly dismissed the idea of standard sets of conditions being applied to all venues.

²⁴ Overview of the Liquor Amendment Bill 2014 (NSW) available online at <http://www.parliament.nsw.gov.au/prod/parlament/nswbills.nsf/0/BB87F6864D9693C1CA257C6F007FEC0E>

In view of the limited statistical evidence supporting the impact of the lockdown laws on public safety, this review should strongly consider the 7 key actions below. This argument is even stronger in light of the economic, cultural and social impacts of the lockdown laws addressed below.

2. Economic impacts

The economic impact of the lockdown laws include venue closures, decreased tourism and increased unemployment which conflict with the overall objectives of the Act “to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries”.²⁵ The lockdown laws are not contributing to the development of these industries because they have made them financially unviable.

The NSW Government is aware of the economic impact of the lockdown laws. For example, the NSW Legislative Assembly has heard evidence from business groups that visitors to Kings Cross and the CBD have experienced declining revenues between 20% to 50%.²⁶ The 2013 Review, which was finalised only months before the introduction of the 2014 amendments, did not support “blanket trading hours or a ‘one size fits all’ policy... [t]he measure would also have a significant impact on local employment and economic activity”.²⁷ The NSW Government, aware of this, nonetheless introduced the lockdown laws and has not yet released meaningful information on the economic impact of the lockdown laws.

The media has widely reported the impact of the lockdown laws on venue closures.²⁸ These closures may not be solely attributable to the lockdown, but the lockdown laws have been a contributing factor as set out in **Confidential Appendix 2**. Since the introduction of the lockdown laws, approximately 30 licensed venues²⁹ have closed in the areas affected by the laws:

- Hugo's Lounge
- Flinders
- Soho

²⁵ Section 3, paragraph 1(c), of the Act. Neither the Explanatory Note or Second Reading Speech to the 2014 Amendments do not seem to consider the economic impact

²⁶ Menendez, Weatherburn, Kypri and Fitzgerald, Lockouts and Last Drinks: The impact of the January 2014 liquor licence reforms on assaults in NSW, Australia, Crime and Justice Bulletin No. 183 (April 2015)

²⁷ See Note 23 at 58

²⁸ For example see <http://www.smh.com.au/nsw/lockout-laws-sydney-iconic-nightspot-the-exchange-shuts-its-doors-20150709-gi8aky.html> and <http://www.smh.com.au/nsw/sydneys-lockout-laws-bar-century-set-to-close-as-lockout-laws-blamed-in-part-for-downturn-in-trade-20160212-gmsias.html>. The City of Sydney Report at 13 showed that while most precincts were busiest in the evening (5-11pm), Kings Cross and Oxford Street were busiest during the night (11pm-1am) which means venues in these areas are more lose business as a result of the lockdown laws.

²⁹ There is no data available concerning unlicensed businesses that may have suffered such as restaurants, takeaway shops, taxis and convenience stores.

- Goldfish
- Crest Hotel
- Bar Century
- Goodgod
- Beach Haus
- The Passage
- Barrio Chino (will close in April)
- Q Bar
- 34B
- Phoenix
- Spectrum
- Exchange Hotel
- Backroom
- Tunnel
- La Cita
- Le Panic
- Sweet 16
- Revolution
- Favella
- The Village
- Sapphire Lounge
- Iguana Bar
- Love on Top
- Trademark Hotel
- Piano Room
- The Bank Hotel

The lockdown laws have received media coverage worldwide, from the US³⁰ to the UK.³¹ It is not far-fetched or fanciful to expect that this will result in Australia being perceived as ‘un-fun’ or a ‘nanny state’. That appears to be the view of foreign backpackers in Sydney.³² Tourism is likely to decrease as a result of the lockdown laws. The economic impact of this is significant, especially if it dissuades young tourists to travel elsewhere for year or multi-year long working holidays.

Increased unemployment is likely to arise from the business closures referred to above and the general decline in night-time business viability which services those areas affected by the lockdown. This unemployment includes bar staff, security staff, musicians, artists, and taxi staff. The lockdown laws also reduce the ability of Sydney

³⁰ <http://www.usatoday.com/story/news/world/2016/02/23/sydney-wants-keep-partying-despite-crackdown-alcohol-abuse/80756784/>

³¹ <http://www.dailymail.co.uk/news/article-3438577/Over-20-000-people-Sydney-Open-campaign-Facebook-vows-solutions-street-safety-WITHOUT-lockout-laws.html>

³² Smith, R ‘Backpackers share disappointment at Sydney night-life as victims’ families defend lockouts’ at news.com.au (13 February 2016) available at <http://www.news.com.au/travel/travel-updates/incidents/backpackers-share-disappointment-at-sydney-nightlife-as-victims-families-defend-lockouts/news-story/431084e4c1a1363655d4f56c20e3bfe2>

businesses to attract talent. When competing with hubs such as London and New York, Sydney businesses have a competitive advantage in terms of lifestyle. However, if the general perception of Sydney is 'un-fun' or a 'nanny state' this competitive advantage will be reduced, which is supported by recent media coverage.³³

3. Cultural and social impacts

The NTE is a hallmark of global cities such as New York, London and Paris and something previous NSW Governments sought to foster. There is immeasurable value in live music, night-time culture (e.g. eating *and* drinking past 1.30am) and creativity. In fact, the architect of the Newcastle lock-out laws has said "*If patrons wish to eat, listen to music, or watch a striptease, it should not be for government to decide whether premises are allowed to provide these services.*"³⁴

Since the introduction of the lockout laws, it has become more difficult to sustain a late-night business with approximately 30 late-night licensed venues having shut down, many of which offered patrons the chance to listen to live music or party on the dance floor.

The lockout laws are not fulfilling the express object of the Act to contribute to the development of industries such as live music and entertainment.³⁵ Sydney should foster and diversify its NTE, not destroy it. If the NSW Government cannot balance safety and culture with the lockout laws, it will continue to struggle with issues such as the Sydney Cricket Ground Trust recently being listed on NSW's most violent venues list.³⁶

Matt Barrie's criticism of the cultural, social and economic impact of the lockout laws has been viewed nearly one million times.³⁷ Over 52,000 people have signed a petition to put an end to the lockout laws, acknowledging that safe streets and a vibrant nightlife are not mutually exclusive. More than 15,000 marched in protest of the lockout laws on 21 February 2016.

Instead of people heading out to socialise, the lockout laws send people to bed. Last year, a City of Sydney's Report³⁸ observed that, compared to 2012, there was a 58%

³³ Smith, J 'Meet the million dollar start-up gurus Malcolm Turnbull wants back in Australia' at news.com.au (4 January 2016) available at <http://www.news.com.au/finance/business/technology/meet-the-million-dollar-startup-gurus-malcolm-turnbull-wants-back-in-australia/news-story/4261a31d3f1f9a5b651902e6c5777ba2>

³⁴ See 16 above

³⁵ Section 3, paragraph 1(c), of the Act

³⁶ <http://www.smh.com.au/nsw/sydney-cricket-ground-trust-on-most-violent-venues-list-20151127-gl9mh2.html>

³⁷ Barrie, M 'Would the last person in Sydney please turn the lights out?' on LinkedIn (3 February 2016) available at <https://www.linkedin.com/pulse/would-last-person-sydney-please-turn-lights-out-matt-barrie>

³⁸ See Note 16

decrease in pedestrian traffic in Kings Cross at 11pm. That suggests that the lockdown laws were resulting in a decrease in foot-traffic before the 1.30am curfew. The lockdown laws may also send people to illegal venues³⁹ or promote recreational drug taking since *“alcohol is only one of a range of possible drugs in young people’s repertoires, although favoured by many because it is relatively cheap, legal, tolerated (and even facilitated)”*.⁴⁰

Deloitte Access Economics reported in 2011 that venue-based live music makes a significant contribution to the social and cultural landscape. It helps develop music careers and incubate talent. There are significant benefits from attendance including social wellbeing and connectedness and 92% of patrons found live-music improved their quality of life.⁴¹ However, the live music industry is in decline as a result of the lockdown laws. The Australia Live Music Office⁴² has reported that ticket sales from live venues have fallen approximately 40% between January 2013 and February 2015. Over that period, venue attendance dropped by approximately 19%, and venues reduced their spending on performers by 15%. We expect this trend in diminished engagement will be echoed in other areas of the performing arts.

7 Key Actions

1. Policing

KSO supports the critical role that the NSW police have to play in the successful management of Sydney’s NTE. Anecdotal evidence suggests that a lack of coordinated police presence in Kings Cross prior to the introduction of the lockdown laws was a key part of the problem.

KSO has collated evidence which suggests that police resources in Kings Cross and the CBD have been underutilised, misapplied and in many cases acted as a hindrance rather than a help to the safe operation of the NTE. Many of our stakeholders have reported a reluctance on the part of the police to apprehend belligerent or potentially violent patrons. The attitude seems to be that it is too much trouble or potential liability for the police to step-in. This lax enforcement attitude contributed to a lawless scene which attracted people with the idea that the Cross was somewhere where anti-social behaviour was tolerated.

³⁹ <http://www.dailytelegraph.com.au/news/nsw/lockout-laws-fears-of-illegal-bars-after-dreamgirls-raid-uncovers-hidden-speakeasy/news-story/5feed9750399e8de09240e5999fb2902>

⁴⁰ Aldridge et al, ‘Illegal Leisure Revisited: Changing Patterns of Alcohol and Drug Use in...’ at 73.

⁴¹ Deloitte Access Economics Report, 20 June 2011 ‘Economic, social and cultural contribution of live music in Victoria’, prepared for Arts Victoria available at http://creative.vic.gov.au/Research_Resources/Research_Reports/Live_Music_in_Victoria

⁴² Report from Australia’s Live Music Office available dated 19 February 2016 online at <http://livemusicoffice.com.au/drop-in-live-performance-revenue-and-nightclub-attendance-in-sydney-cbd-since-introduction-of-lockout-laws/>

Venue owners have also reported that instead of providing support in the detection and prevention of crime, the police focus on punishing minor misdemeanours on the part of the venue owners themselves. It is worth noting that the misapplication of police resources is not something that is subject to civilian oversight, and thus is not brought to light easily. Except for the purposes of corruption and criminal behaviour, nobody polices the police to ensure that their resources are being applied effectively and for the public good.⁴³

A high-profile, proactive police presence can act as an effective deterrent to crime in the NTE. When Vancouver's entertainment district experienced an increase in alcohol-related violence problems in 2009, the government responded with 'BarWatch' – a program of improved collaboration between the police and local bar owners. Police were deployed on the basis of a 'meet and greet' philosophy, with officers being encouraged to move around and interact positively with individuals in the NTE. The results were overwhelmingly positive and played a large part in bringing the situation under control.⁴⁴

2. Transport

Making sure that people are able to leave venues quickly and safely when they decide to is a key part of reducing alcohol-related violence. Frustration caused by a lack of available transport options and competition for the few available taxis is a known source of conflict and opportunities for crime. Before the introduction of the lockdown laws, the inflexible taxi industry roster system of 3:00pm to 3:00am shifts and the comparatively high fares (compared to other, similar sized cities) was a worsening factor.

Sydney nightlife attracts tens of thousands of people into the city and yet trains and busses stop running or become impractically infrequent long before people are ready to go home. In other major cities in Australia (notably Melbourne) and internationally, public transport runs 24 hours, 7 days a week on weekends, in recognition of its importance in enhancing safety and amenity of the NTE.⁴⁵ Sydney needs to keep pace with its competitors in this way and should move to extend bus and train timetables on Friday and Saturday nights.

As an aside, in December 2012, the ride-share service, Uber Technologies Inc (**Uber**) began operating in Australia. Irrespective of the evolving legalities of this service, Uber put more cars on the road in its first year was estimated to have transported over

⁴³ A. Tink AM, 'Review of Police Oversight: A report to the NSW Government on options for a single civilian oversight model for police', 31 August 2015.

⁴⁴ Vancouver Police Department, 'Reclaiming the street of shame: A problem oriented solution to Vancouver's Entertainment District', 1 June 2009, available <http://www.popcenter.org/library/awards/goldstein/2009/09-25.pdf>.

⁴⁵ R Willingham, 'Victorian government says lockdown laws would destroy Melbourne', *The Age*, 14 February 2016, available at: <http://www.theage.com.au/victoria/lockout-laws-would-destroy-melbourne-victorian-government-20160214-gmtppt.html#ixzz44jeiFIVP>.

50,000 people out of the lockdown zone. In light of the important role of public transport for the NTE, the popularisation and now legalisation of Uber would have almost certainly had an impact on the reported reduction in alcohol-related violence in Sydney commonly attributed to the lockdown laws.⁴⁶

3. Planning

It is well documented that intoxication is but one of several factors contributing to violent crime in and around licensed venues. Environmental factors such as the design of the streetscape, the architecture and management of venues and service infrastructure all need to be considered.

The literature in this area suggests a general link between the number and proximity of bars and rates of violence.⁴⁷ However, care must be taken in applying these findings, as it is also well-established that different types, layouts and capacities of venues are associated with different rates of alcohol-related harm.⁴⁸

As such, recommendations such a 3-tiered system of land-use zones with 'core zones', 'buffer zones' and 'preferred areas' could be a useful way to ease pressure in areas that are deemed to be 'saturated'.⁴⁹ However, the approach must be nuanced enough to take into consideration the characteristics of the venues within a specific area. Venues that do not exist for the sole purpose of selling alcohol should not be considered like with other venues. Applying a blanket freeze to a geographical area is unsophisticated and denies the opportunity to encourage a diversification of venue types that have been shown to be low-incident.

There is strong evidence to suggest that other measures such as improved street lighting can be an effective tool for reducing crime. In particular, the illumination of crime hot spots such as taxi ranks and other transport hubs should be considered.⁵⁰

Designing Out Crime (**DOC**), an initiative between the NSW Government and UTS, was the first to suggest that the tens of thousands of people visiting Kings Cross on a Friday and Saturday night was akin to the scale of a music festival, and yet Kings Cross

⁴⁶ Uber Newroom, 'One Year, One Million Rides', 7 May 2015, available at <https://newsroom.uber.com/australia/one-year-one-million-rides-2/>.

⁴⁷ Cameron et al, 'Alcohol outlet density and violence: A geographically weighted regression approach', Drug and Alcohol Review (2015); Preventative Health Taskforce, Technical Paper 3: Preventing Alcohol-related harm in Australia: a window of opportunity, Australia: the healthiest country by 2020 (2009), National Preventative Health Strategy, Australian Government Department of Health and Ageing, Canberra, Australia.

⁴⁸ P. Hadfield, 'Night-time economy management: International research and practice – A review for the City of Sydney, September 2011' (2011), provided by the author at 20.

⁴⁹ P. Hadfield, 'Night-time economy management: International research and practice – A review for the City of Sydney, September 2011' (2011), provided by the author at 21.

⁵⁰ Recommendation made by Designing Out Crime, 'Rethinking Approaches to Making a Safer Night Time' available at: <http://designingoutcrime.com/wp-content/uploads/2014/08/KingsX-Booklet-v2.pdf>

benefitted from none of the principles of event management considered essential to curb violence at music festivals – including coordinated public transport, crowd control, road closures, active lighting, public toilets and a curated program of events.

4. Diversification of after-dark activities

Sydney's NTE suffers from a lack of diversified after-dark activities that do not revolve solely around drinking. Public perception surveys have found a strong desire for varied night time experiences, particularly live music and entertainment, extended hospitality and retail activities.⁵¹

Live music

The ability of venues to offer live music and entertainment is contingent on them being able to generate revenue from alcohol and food sales, as ticket prices contribute only a small percentage of income. The lockout and cease of service laws have hampered this to the extent of making live music offering unviable for many venues, as discussed above. In the absence of a sustainable source of government funding or other encouragement of the live music industry, Sydney is at risk of losing this aspect of its NTE to another key societal vice and known cause of violence, gambling.⁵²

Venues that offer live music and entertainment should be encouraged with more flexible regulation including extended trading hours and reduced licensing fees.

Retail and hospitality trading hours

Sydney's retail outlets have relatively early closing times, compared with other Global Cities in Europe and Asia. Citizens in countries in those continents are presented with a range of activities after-dark in and around the CBD, including late-night shopping, food stalls, night markets and extended trading hours for museums, art galleries and other cultural institutions. Not only do these activities permit economic opportunities and delay/reduce drinking patterns, they enliven the streetscape, encourage participation by different generational, socioeconomic and ethnic groups and ease congestion around other peak trading times.⁵³ This also contributes to the

⁵¹ Deloitte Access Economics Report, 20 June 2011 'Economic, social and cultural contribution of live music in Victoria', prepared for Arts Victoria available at http://creative.vic.gov.au/Research_Resources/Research_Reports/Live_Music_in_Victoria

⁵² A study in Victoria showed that one in five suicides are gambling related, which was supported by data collected by the Victorian Coroners' Court – see K Hagan, 'Gambling linked to one in five suicide patients' 21 April 2010 (Sydney Morning Herald) available online at <http://m.smh.com.au/national/gambling-linked-to-one-in-five-suicidal-patients-20100420-srri.html>. See also the Victorian Coroner's Court research into gambling related suicides available online at <http://www.coronerscourt.vic.gov.au/resources/64095dbc-321c-42e4-8f75-01a8d201c062/cpu+data+summary+-+gambling+related+suicides+-+10+sep+2013.pdf>.

⁵³ P. Hadfield, 'Night-time economy management: International research and practice – A review for the City of Sydney, September 2011' (2011), provided by the author at 43.

normalisation of the city's NTE with resultant 'soft-policing' effects this has been shown to bring.⁵⁴

Small bars

There is also an unmet demand for a diversification of the types of venues that do offer alcohol in Sydney. The continual comparison between Sydney and Melbourne in this respect, with the latter coming up trumps is a well-rehearsed media topic.⁵⁵ The success of the *Liquor Amendment (Small Bars) Act 2013* is testament to this public demand and should be built on. Not only do small bars have a zero incident record, but the less frantic socialising opportunity that they offer provides an alternative to venues in hot spots, reducing pressure on those precincts. The current small bar capacity limit of 60 persons is limiting the potential of this venue type, and should be increased to 120 persons, as per the South Australian example. Other incentives including longer trading hours and reduced licensing fees should be considered.

5. Anti-violence education campaigns

Public education campaigns on safe drinking are an important part of a package of measures to address alcohol-related crime in the NTE. Youth-led organisations like Wake-Up⁵⁶ are doing much to help young people re-evaluate their attitudes to violence, drugs and alcohol.

A key message from the literature is that education campaigns work best when conducted by different levels of government, health care professionals and venue operators working in partnership.⁵⁷

The time and place of these messages has also been shown to be important. The UK has had considerable success introducing brief interventions in health care settings and to persons detained in police custody.⁵⁸ As these services are often the first contacted by both perpetrators and victims, they offer an opportunity for early treatment intervention, data gathering and information giving. Brief interventions

⁵⁴ M. Roberts, 'Good practice in managing the evening and late night economy: a literature review from an environmental perspective' (2004), London: Office of the Deputy Prime Minister.

⁵⁵ P. Martin, 'Australians flock to Melbourne as Victoria becomes Australia's fastest growing state', 26 June 2015, available at: <http://www.smh.com.au/federal-politics/political-news/australians-flock-to-melbourne-as-victoria-becomes-australias-fastest-growing-state-20150625-ghxj27.html#ixzz44iUsUX3L>.

⁵⁶ <http://wakeup.org.au/>

⁵⁷ W. Minstral et al, UKCAPP: An Evaluation of 3 UK Community Alcohol Prevention Programs, Final report to AERC (2007), available at <http://www.aerc.org.uk/>

⁵⁸ P. Hadfield, 'Night-time economy management: International research and practice – A review for the City of Sydney, September 2011' (2011), provided by the author at 70.

given in a UK maxillofacial clinic were associated with one in five at risk drinkers converting to 'safer' drinking practices at one year's follow up.⁵⁹

Importantly, this type of intervention has the potential to result in a shift in cultural attitudes towards alcohol, particularly amongst young men, often emphasised as a core part of the problem. There is significant issue with the pervasiveness of alcohol advertising, as Mike Baird highlighted last year.⁶⁰ This is particularly problematic given the exposure to children.⁶¹

6. Incentivising well-run venues

A key criticism of the lockdown laws from a policy perspective is their unfairness. The burden of economic harm is being felt by operators whose venues have contributed zero to the incident statistics, and whose contribution to the community has been nothing but positive. At the same time, the exclusion of the Star Casino and Barangaroo from the laws has been duly noted by the public, who perceive it as highly unfair and indicative of an underlying power politics dominating planning in the city.

A mechanism to assess each licensed venue's risk rating and reward the best performers should be a part of policy mix. Not only would this incentivise best-practice, but it would have revenue impacts allowing other resources to be allocated most efficiently.

A database can be used to collate data on a venue's record for crime, disorder and nuisance. Information can then be shared with the venue's operators, creating an incentive for them to improve their risk rating by cooperating with authorities, reducing rates of incidence and sharing intelligence. The lowest risk premises can be rewarded with reduced licencing restrictions, whilst the highest risk are subject to greater restrictions, enforced by regular inspections, fines and prosecution for non-compliance.

Such procedures have been shown to contribute to increased social responsibility standards across the NTE, as a "bar watch" culture is created.⁶² The UK has had success with a program called Best Bar None, implemented in over 100 locations around the country to recognise and reward good practices amongst licenced operators.

⁵⁹ H. Smith et al, 'A Randomised Control Trial of a Brief Intervention after Alcohol-Related Facial Injury', *Addiction*, 98: 43-52.

⁶⁰ <http://m.smh.com.au/nsw/premier-mike-baird-speaks-out-about-alcoholrelated-advertising-20150917-gjotls.html>

⁶¹ Carr, O'Brien et al, 'Children's exposure to alcohol advertising in AFL, Cricket and NRL' available at <http://profilesarts.wpengine.netdna-cdn.com/kerry-obrien/files/2012/03/Carr-OBrien-et-al-2015-Childrens-exposure-to-alcohol-advertising-in-AFL-Cricket-NRL.pdf>

⁶² P. Hadfield, 'Night-time economy management: International research and practice – A review for the City of Sydney, September 2011' (2011), provided by the author.

7. Night Mayor

As indicated above, dealing with the NTE requires a package of measures, flexibly implemented to achieve results over time. A key part of the success of these measures internationally has been cross-agency communication and coordination to a level not seen in the city thus far.

The creation of a specialised Night Mayor position within the NSW Government would assist this process, allowing on-going strategic planning and communication between the authorities and participants to occur via a centralised role. The Night Mayor should focus on policies to implement the other 6 key actions above.

Conclusion

The evidence in Australia and in other Global Cities suggests that intelligent planning and public space management, diligent policing and enforcement are crucial for a safe and incident free NTE. It is KSO's submission that the lockdown laws have failed to achieve their stated goals – they have simultaneously reduced Sydney's appeal and weakened its economy. Other, evidence-based options are available. The 7 key actions above, if implemented in combination, present an opportunity to capitalise on the vast potential of this great city.

All the policy recommendations above require careful planning and coordination with authorities and participants working in partnership, aided by sustainable funding sources and proactive monitoring and evaluation. We believe these policies benefit from strong public support and with the requisite political will to implement them, would go a long way to Keep Sydney Open, safe and prosperous.



GIPA Reference Number

Government Information (Public Access) Act 2009 Access Application Form – Formal Application

Please complete this form to apply for formal access to information held by NSW Police under the *Government Information (Public Access) Act 2009 (GIPA Act)*.

Your Details

Name (Family Name,
Given Name):

Title:

Previous Names:

Company Name:

Postal address:

State:

Postcode:

Preferred Contact Number:

Email:

I agree to receive correspondence at the above email address. YES/NO

Proof of identity

Only required when an applicant is requesting information on their own behalf.

When seeking access to personal information, an applicant must provide proof of identity in the form of a certified* copy of any one of the following documents:

☐ Australian passport

☒ Current Australian passport

☒ Certified copy of a document issued by a government or local authority, or a document issued by a professional body (e.g. Justice of the Peace, doctor, teacher, pharmacist, legal practitioner, Postmaster - Australia Post).

Application fee and processing charges

☒ Money order (Enclose a money order made payable to NSW Police)

☐ Credit card (Enclose a credit card made payable to NSW Police)

Please do NOT send cash through the post.

Fee Reduction

You may be entitled to a reduction of fees to \$15.00 if:

- You have financial hardship - Please attach supporting documentation eg Health Card, Pension or Centrelink Card

- Special benefit to the public - Please specify why? Informative to the statutory Review by Justice Ian Callinan of the 'lost but known' and the public understanding of said review and a greater understanding of street violence.

Government Information

Are you seeking personal information? Yes/ No

Are you seeking your Criminal History only? Yes/ No

Please describe in detail the information you would like to access to allow the record(s) to be identified.

Event Number: N/A Date of incident: N/A

Local Area Command incident was reported to: N/A

However, your application is not valid until you provide enough details to enable NSW Police to identify the information you are seeking. You can only apply for access to information that is contained in records that are currently held by NSW Police. NSW Police cannot be required to create a new document in order to respond to your application but may, if it is more administratively convenient, decide to do so (e.g., create a summary document rather than to copy all of the source documents. You should supply any additional information that you feel will support your claim for access to the document/information.

Note: If the incident you require involves a deceased person which was investigated by the State Coroner, please enquire with that department prior to applying to this unit.

My request is regarding the Kings Cross LAC. I wish to request documentation relating to the Number of officers on patrol in Kings Cross during the periods of ~~August 2011 - July 2012~~, August 2011 - July 2012, August 2012 - July 2013 and August 2013 - July 2014.

I would also like to request any correspondence ~~and~~ from Kings Cross LAC regarding changes in the deployment of officers in the area after ~~the~~ July 7th 2012. Any correspondence or protocols on deployment levels and strategies for three months following 7 July 2012 would be ideal.

I can clarify or negotiate this enquiry subject to your advice at any time. do not hesitate to contact me.

Disclosure Log

If the information you have requested is released to you and would be of interest to other members of the public, details about your application may be recorded in NSW Police's 'disclosure log'. This is published on NSW Police's website.

Do you object to this? (please tick one)

- ☐ YES
☒ NO

Note: You will be contacted and given a further chance to object before the document(s)/information is placed on the Disclosure Log.

Privacy Statement

NSW Police is subject to the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002* which requires us to comply with Information and Health Privacy Principles. Your personal information is being collected to process your application for information pursuant to Part 4, Division 1 of the *Government Information (Public Access) Act 2009*. NSW Police may use your personal information for the purposes of processing your application within the agency.

NSW Police is required to collect personal information directly from the individual unless the individual has authorised collection of the information from someone else. NSW Police will not disclose your personal information without your consent unless authorised by law.

Your personal information will be held by NSW Police at 1 Charles Street, Parramatta NSW 2150. You have the right to access and correct the information if you believe that it is incorrect.

Applicant's signature



Date:

08/03/2016

Applications can be lodged using the following methods:-

Mail

NSW Police
Information Access and Subpoena Unit
Locked Bag 5102
Parramatta NSW 2124
T: 8835 6888

E-Mail

E: gipaapp@police.nsw.gov.au – A credit card authority **must** accompany any emailed application

Form of access

How do you wish to access the information?

- ☒ Inspect the document
- ☒ A copy of the document(s)
- ☐ Access in another way (please specify) Example: In the form of a CD or DVD.

Consultation

NSW Police may be required to consult with third parties before deciding your application.

Please circle "yes" or "no" below whether you consent to the release of the following information to any third parties. This information will assist any third party to understand why you are seeking the information.

If available are you seeking access to Witness Statements?

YES **NO**

Have you obtained an authority from the other person/s to release their statement to you?
If 'YES', please attach written Authority.

YES NO

If 'NO' consultation with other involved persons may be required.

Please complete the 'CONSULTATION' section below.

(To be completed ONLY if the documents you require involve or may involve other persons)

Do you wish for other involved persons to be contacted to obtain their consent to release information to you?

YES NO

Do you understand that to engage in a consultation process, that the time to respond to your application will be extended by a further 15 days?

YES NO

Do you understand that as the information requested is considered non-personal that additional charges may apply ?

YES NO

Do you require the personal information of other persons involved (eg name and address)?

YES NO

Do you consent to the other party being given your details as the applicant requesting their information?

YES NO

Would you accept a statement without the personal information of the other party?

YES NO

4. Form of access

How do you wish to access the information?

☐ Inspect the document(s)☒ A copy of the document(s)☐ Access in another way (please specify)**5. Application Fee**I attach payment of the **\$30 application fee** by cash / cheque / money order (circle one).

(Note: please do NOT send cash by post)

6. Disclosure log

If the information sought is released to you and would be of interest to other members of the public, details about your application may be recorded in the agency's 'disclosure log'. This is published on the agency's website.

Do you object to this? **Yes** / **No** (circle one)**7. Discount in processing charges**

If you are given access to the information sought, you may be asked to pay a charge for processing the application (\$30 / hour). Some applicants may be entitled to a 50% reduction in their processing charges. If you wish to apply for a discount, please indicate the reason:

☐ Financial hardship – please attach supporting documentation (eg a pension or Centrelink card).**AND / OR**☒ Special benefit to the public – please specify why below:

The specified information would be valuable to the public during the statutory review of the 'Lockout laws' by Justice Ian Callinan.

Applicant's signature: [REDACTED]

Date: 28/03/2016

Please post this form or lodge it at: Senior External Relations Officer, Strategic Relations and Communications Branch, NSW Ministry of Health, 73 Miller Street, North Sydney NSW 2060.



General information about the GIPA Act is available by calling the Information and Privacy Commission freecall 1800 472 679 or at its website: <http://www.ipc.nsw.gov.au>

Office use only

Date application received:

File reference: