

Justice Ian Callinan  
Independent Liquor Law Review  
NSW Department of Justice and Attorney General

4 April 2016

Dear Justice Ian Callinan,

This submission seeks to briefly outline ways in which the Liquor Amendment Act of 2014 does not achieve the policy objectives of reducing anti-social behavior and alcohol related violence.

Key Areas:

- **Undue focus on Kings Cross.** The submission will outline the undue focus on the Kings Cross area and the lack of consideration given to other areas included in the lockout zone including Surry Hills, Darlinghurst, Woolloomooloo, the CBD and The Rocks.
- **Undermining safe nightlife.** The submission will outline the way the legislation punishes non-violent, peaceful institutions. Undermining the objective of reducing anti-social behavior, and unfairly targeting businesses and patrons.
- **Unaffected levels of anti-social behavior.** Outside the lockout zone, venues that have a demonstrated history of violence remain unchecked. Meanwhile, non-violent venues within the lockout zone are punished.

### **Undue Focus On Kings Cross**

I note that the issues paper created by the department for the statutory review mentions 'Kings Cross' 25 times in its 16 pages. It does not mention 'Surry Hills' or 'The Rocks' once, while 'Darlinghurst' gets one mention and 'Oxford Street' is mentioned only twice.

The Liquor Amendment of 2014 also affects these suburbs, and the business owners, patrons and residents who are stakeholders in them. Why are they not given equal weight by the department, the government or the many advocates of the lockout laws?

I ask the review to consider the lockout area in its totality, and to not allow the area of Kings Cross undue weight when considering the merits of the lockout zone as it currently exists.

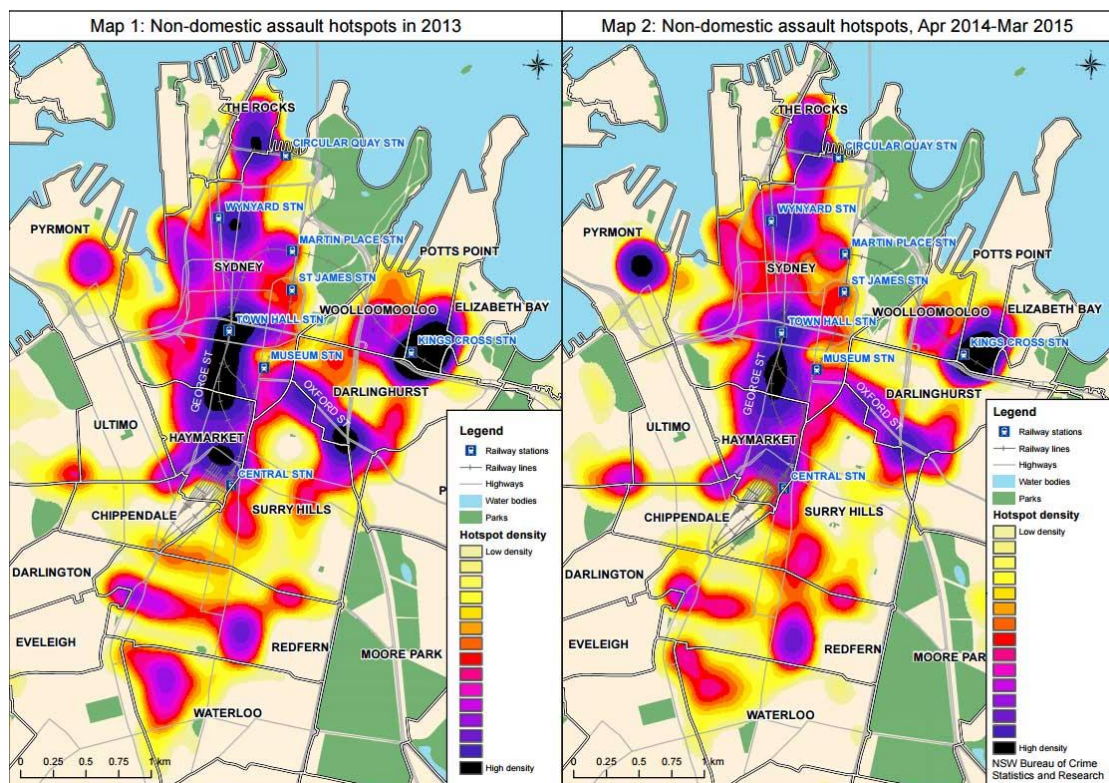
The majority of evidence cited in the issues paper relates to Kings Cross. This submission contends that Sydney did not have a problem with individuals drinking after 3:00am, or entering premises after 1:30am across the city. Sydney had a Kings Cross problem.

The issues in Kings Cross were many. There were too many licensed venues in a small location. Many of these licenses were given to venues on the upper

threshold of patron capacity, making them inherently unruly and difficult to control. Transport out of the area was severely lacking. Many of the venue owners, security guards and staff were known to be connected to organised crime.

But Kings Cross is an area of a couple hundred metres. The lockout zone extends for nearly 5 square kilometres.

Below is [Figure 1](#), produced by NSW BOCSAR, it is a heat map of non-domestic assault in Sydney in the years leading up to the lockout laws and in the year immediately following it.



You will notice a lack of significant non-domestic assault in Darlinghurst (the area between Kings Cross and Oxford Street), in Surry Hills, Woollomooloo and parts of the CBD and The Rocks.

The business owners, residents and patrons of these areas have not received consideration by the policy makers who, in their own words, seem to be trying to solve a problem that occurred in Kings Cross.

The violence problem was created in and around a handful of venues in Kings Cross. The sanction of these venues would be a more effective policy mechanism than including areas and businesses in the lockout, which did not contribute to the problem.

Furthermore, OLGR designed the legislation based on the premise that a large number of people, consuming alcohol, over time, produce greater incidences of violence.

But an area like Surry Hill demonstrates that this is not the case. Crown Street, Surry Hills has a high density of licensed venues yet does not have a violence problem.

Surry Hills has a greater number of small venues, a greater number of venues that sell food as well as alcohol, a higher proportion of live-music venues and venues that host other live entertainment as well as a greater area the venues are spread across.

The correlative factor is not between drinking alcohol and committing assault. The correlative factor is between being in a venue with over a thousand people, with staff associated with organised crime, in a confined area, with inadequate transport out and no CCTV and an minimal police presence – and being assaulted.

If the legislation does not address the correct correlative factors to anti-social behavior, it cannot be effective in achieving its objectives.

### **Undermining a Safe Nightlife**

This submission would like to reinforce the fundamental unfairness of legislation that purports to reduce violence, which punishes venues that have never had an incidence of violence.

The submission by the Small Bars Association of NSW will inform the review that in the eight years since the small bars license was created, only a handful of violent incidents have taken place in small bars.

This is not only deeply unfair to the stakeholders in these businesses, but actively undermines the intent of the legislation.

Venues that create a non-violent atmosphere are essential to establishing a non-violent late night culture. These venues should be rewarded and encouraged for good business practices, and for creating safe spaces in the city.

The policy in place is all stick and no carrot.

What's more, the policy disproportionately affects Non-violent venues. They are typically smaller and operate on smaller margins than violent venues. Non-violent venues are more vulnerable to changes in business conditions (Jimmy Liks, The Passage), and many have closed, while larger businesses that were the source of many assaults remain open (The Ivy).

## **Unaffected Levels of Anti-Social Behavior**

Out of the fourteen most violent venues in NSW [published](#) by the Justice Department in 2015, only two are within the lockout zone (The Ivy and Home Nightclub).

In 2013, The year before the lockout began, there were also only two venues on the list (The Ivy and The Trademark Hotel) that were inside the inner-city area.

It is the contention of this submission that any legislation targeting a reduction in anti-social behavior and alcohol-related assault should address violent venues wherever they are. Anti-social behavior and violence continue unabated in areas of the state that are not as high-profile as Kings Cross.

One glance at the state wide non-domestic assault data demonstrates that places like Bowral and Byron Bay have similar level of violence per-capita as inner-Sydney does.

The Liquor Amendment Act of 2014 does little if anything to address the anti-social behavior across the state, where cameramen from major newspapers rarely tread.

## **Conclusion**

The Liquor Amendment Act 2014 does not effectively reduce anti-social behavior caused by alcohol.

The legislation is an attempt to control violence in a problem area smaller than the size of a football field, by restricting trade in an area the size of a metropolitan city.

It is an attempt to reduce violence by restricting the trade of venues with a demonstrated history of non-violence, disproportionately effecting them and driving non-violent venues out of business.

Finally, it does nothing to stiffen penalties for those venues that do cause violence, the majority of which were never actually within the lockout zone.

Many thanks, your honour, to yourself and your staff for the consideration of my submission.

Kind regards,

Scott Mitchell

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