

Police Association of NSW Submission

Independent Review of the Impact of Liquor Law Reforms By the Hon. Ian Callinan AC QC



The Police Association of New South Wales (PANSW) represents the professional and industrial interests of approximately 16,500 members, covering all ranks of NSW Police Officers in New South Wales.

This submission is written on behalf of our members and does not seek to represent the position of the NSW Police Force.

Terms of Reference of Inquiry

- On 30 January 2014, the NSW Parliament passed the *Liquor Amendment Act 2014* which implemented a package of new reforms to tackle alcohol-related violence. The reforms included the imposition of 1.30am lock out and 3am cessation of liquor sales requirements on venues in the Sydney CBD Entertainment and Kings Cross Precincts. These requirements took effect on 24 February 2014.
- Clause 47 of Schedule 1 of the *Liquor Act 2007* requires the Minister to appoint an independent person with appropriate expertise, knowledge and skills to chair a review of the lockout and 3am cessation of liquor sales provisions to determine whether their policy objectives remain valid and their terms appropriate for securing those objectives.
- The review is to be undertaken as soon as possible after two years following the date of assent (5 February 2014) and the Minister is to report to the Premier on the outcome of the review as soon as practicable after the review is completed.
- The review will assess the impacts of the 1.30am lock out and 3am cessation of liquor sales requirements on:
 - alcohol-related violence and anti-social behaviour in the Sydney CBD Entertainment Precinct, Kings Cross Precinct, potential displacement areas, and the broader community;
 - safety and general amenity in the Sydney CBD Entertainment Precinct, Kings Cross Precinct, and potential displacement areas;
 - government, industry and community stakeholders, including business, financial and social impacts, and the impacts on patrons and residents (including whether venues continue to trade after 3am when alcohol service ceases).
- The review will consider the positive and negative impacts of the 10pm takeaway liquor restriction across NSW, with particular regard to be had to the needs of rural and remote communities, and the social and economic impacts of the restriction on those communities.
- The review will consider the impact of the periodic licensing fee system on business viability and vibrancy.
- An expert advisory group, with knowledge of the issues affecting industry and the community, will be convened to provide advice to the chair of the review.
- Liquor & Gaming NSW (L&GNSW) will provide appropriate secretariat and technical support to the review.
- The review will include consultation with key government, industry and community stakeholders, and will include a written submission process open to all persons.
- The review will include an analysis of both quantitative and qualitative data sources, including data from the NSW Bureau of Crime Statistics and Research relating to alcohol-related violence and anti-social behaviour.
- A final review report will be submitted to the Government for consideration in August 2016.

Submission

"I have been horrified by the continued drug and alcohol-fuelled attacks on city streets and the increase in violence used in these attacks," Mr O'Farrell said.

"I've heard the community's call for action and I'm confident this package of measures approved by Cabinet will make a difference," he said.

"These new measures are tough and for that I make no apologies. I expect opposition to some or all of the measures, but the community wants strong action and the NSW Government intends to deliver it."¹

Hon. Barry O'Farrell MP, Premier of NSW 21 January 2014

"If social costs are included, the total cost of alcohol abuse in New South Wales is around \$3.87 billion per annum, or about \$1,565 from each household."²

"The bottom line is: the community should not have to continue to pay such a high price for the impacts of alcohol abuse."³

Mr Peter Achterstraat, NSW Auditor-General 6 August 2013

Far too often night-time economy participants – out enjoying themselves with family, friends or just by themselves - become punching bags for intoxicated offenders intent on inflicting harm on the innocent.

The 2014 alcohol law changes, along with earlier measures particularly those introduced during 2013 and 2014 - including ID scanners, improved closed-circuit television coverage and banning orders - have been a significant gamechanger.

Police and emergency service workers, the Legislature and the community had had enough of the violence, the catastrophic injuries and the deaths.

Something had to happen, and the Members of the NSW Parliament backed in the calls by the community and first responders - who were picking up the pieces of the carnage - to do something significant to reset the playing field.

¹ NSW Government Media Release, *Lockouts and mandatory minimums to be introduced to tackle violence*, 21 January 2014. Available at: <https://www.nsw.gov.au/news/lockouts-and-mandatory-minimums-be-introduced-tackle-violence>

² Audit Office of New South Wales Media Release *Auditor-General's Report Counting the Cost of Alcohol Abuse*. 6 August 2013. Available: http://www.audit.nsw.gov.au/ArticleDocuments/200/Media_Release_Cost_of_alcohol_abuse_to_the_NSW_Government_6_August_2013.pdf.aspx?Embed=Y

³ New South Wales Auditor-General's Report Performance Audit *Cost of Alcohol Abuse to the NSW Government*. August 2013. Foreword. Available at: https://www.audit.nsw.gov.au/ArticleDocuments/281/01_Cost_of_alcohol_abuse_NSW_Government_Full_Report.pdf.aspx?Embed=Y

Two years have passed since then Premier, the Hon. Barry O'Farrell MP told Parliament:

*"The New South Wales Government has heard the community's call for action. We are committed to continuing to address the drug- and alcohol-fuelled attacks on our streets and the increase in violence that is used in those attacks."*⁴

Alcohol-fuelled violence has not disappeared but it has certainly significantly reduced.

The measures currently under review are aimed directly at tackling alcohol-fuelled violence and in doing so they have challenged the Australian cultural norm that being able to buy copious amounts of alcohol and consume it at any time of day or night was okay. It didn't matter the harm it was doing to the person, their loved ones, nor the innocent person who bumped into them in the pub or street.

The PANSW believes one of the most effective ways of tackling alcohol-fuelled violence in the community is by addressing the ease of availability of alcohol through the placement of restrictions on its sale late at night.

The Police Association of New South Wales (PANSW) supports:

1. the retention of the current alcohol harm reduction measures in the Sydney CBD Entertainment and Kings Cross Precincts, including the 1:30am lockout and 3am cessation of alcohol sales;
2. the extension of 1:30am lockout and 3am cessation of alcohol sales measures to all venues in New South Wales;
3. the retention of the state-wide stoppage of take-away liquor sales at 10pm; and
4. increasing fees under the periodic licence fee scheme to recover more of the expenses associated with administering the licensing scheme.

What the community is dealing with

When in 2008, 14 Newcastle venues became subject to lockouts and earlier closures, an outcry of displeasure came from opponents. Over seven years later reality has proven many concerns wrong. Within Newcastle new businesses have opened and statistics are showing a sustained decrease in assaults.⁵

Changing the attitude of Australian society to the use (or more correctly the misuse) of alcohol and the need for some restrictions on its sale and availability will take time – while it may only take a few years, unfortunately there is a possibility it may take a generation. But we have to continue to step forward.

⁴ B O'Farrell *Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014* and *Liquor Amendment Bill 2014* (cognate Bills), *Hansard* Legislative Assembly, NSW Parliament, 30 January 2014. Available at:

<http://www.parliament.nsw.gov.au/prod/parlment/hansart.nsf/V3Key/LA20140130005?open&refNavID=undefined>

⁵ Kypri, K; McElduff, P and Miller, P (2014). Restrictions in pub closing times and lockouts in Newcastle Australian 5 years on. *Drug & Alcohol Review* 33(3):323-6. The study found: "In the CBD, assaults fell from 99 per quarter before the restriction to 71 per quarter in months 19-60 after the restriction was implemented."

Like wearing seatbelts in a vehicle, riding a bike with a helmet on, not smoking in pubs and offices, and not drinking and driving - with time, education and awareness community recognition of the need for modest alcohol restrictions to stop the harm continues to consolidate.

The drop in alcohol-related presentations at St Vincent's Hospital⁶ is also an impressive change indicator. A 2015 *Medical Journal of Australia* published study shows a drop from 4.9% (from Feb 2013 – Feb 2014) to 3.7% (from Feb 2014 – Feb 2015) of critically or seriously injured emergency presentations being related to alcohol use. The proportion of alcohol-related serious injury presentations at high alcohol times (6pm Friday to 6am Sunday) fell from 10.4% to 7.8% of presentations over the same time period.

What police are dealing with

Critically large portions of frontline police time are spent dealing with alcohol-related violence and anti-social behaviour. In 2013 the NSW Police Commissioner spoke of the impact of alcohol on policing in the state and how frontline police officers were spending about 70 per cent of their time dealing with alcohol and its effects.⁷

Funded by the National Drug Law Enforcement Research Fund (**NDLERF**), research reported by the NSW Bureau of Crime Statistics and Research (**BOCSAR**) in 2007 found NSW Police spent more than \$50 million a year (in 2005 dollars) responding to alcohol-related crime, equating to the salaries of around 1,000 officers each year.⁸

The NSW Auditor-General engaged Griffith University to estimate the cost of alcohol abuse to NSW Government services who estimated the cost to NSW Police was \$372.4 million (in 2010) of the \$1.029 billion total cost estimate.⁹

The PANSW is informed since the 2014 measures took effect, NSW Police Force resources needing to be dedicated to addressing crowds and violence in Sydney City and Kings Cross Local Area Commands have dropped significantly.

Fewer Police Officers from outside Commands, Region Enforcement Squads and the Public Order and Riot Squad are required to spend their Friday and Saturday nights patrolling city streets overflowing with intoxicated, potentially violent individuals; stopping trouble and arresting offenders. They have been freed to undertake other policing tasks throughout the metropolitan area.

⁶ Fulde, GWO; Smith, M and Forster, SL (2 November 2015). Presentations with alcohol-related serious injury to a major Sydney trauma hospital after 2014 changes to liquor laws. *Medical Journal of Australia (MJA)*, 203(9). Available at: <https://www.mja.com.au/journal/2015/203/9/presentations-alcohol-related-serious-injury-major-sydney-trauma-hospital-after%20%20>

⁷ NSW Police Commissioner, Mr Andrew Scipione APM addressing the 6th *Australasian Drug & Alcohol Strategy Conference*, March 2013. See related media coverage, including <http://www.smh.com.au/nsw/police-commissioner-lays-down-law-over-drunken-violence-20130330-2h03g.html>

⁸ The BOCSAR media release is available at: http://www.bocsar.nsw.gov.au/Pages/bocsar_topics/bocsar_mr_ndlerf25.aspx Donnelly, N; Scott, L; Poynton, S; Weatherburn, D; Shanahan, M and Hansen, F (2015), *NDLERF Monograph Estimating the short-term cost of police time spent dealing with alcohol-related crime in NSW* is available at: <http://113.20.25.135/sites/default/files/publication-documents/monographs/monograph25.pdf>

⁹ New South Wales Auditor-General's Report Performance Audit *Cost of Alcohol Abuse to the NSW Government*. August 2013. Page 12. Available at: https://www.audit.nsw.gov.au/ArticleDocuments/281/01_Cost_of_alcohol_abuse_NSW_Government_Full_Report.pdf.aspx?Embed=Y

The PANSW maintains current evidence supports that positive impacts would result if the restrictions were imposed across the state. Along with assault reductions in other communities, police would be released to focus on preventing and investigating other offences. Given the cost to the community of alcohol abuse there are significant benefits to communities through additional crime rate reductions.

Sydney CBD Entertainment and Kings Cross Precincts

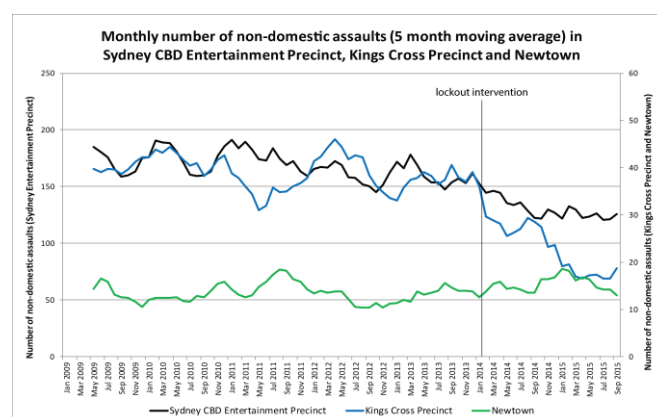
Sydney’s nightlife has changed – some argue for the worse but the PANSW believes the majority would argue for the better.

Sunday newspaper front pages dominated by the faces of innocent victims of coward punch attacks are no longer the inevitable consequence of yet another intoxicated attack on the innocent.

The drop in non-domestic assaults in the Sydney CBD and Kings Cross Precincts is staggering. If recent research by BOCSAR is confirmed through peer review, since January 2014 in the Kings Cross Precinct non-domestic assaults have dropped 45.1% and are down 20.3% in the Sydney CBD Entertainment Precinct.¹⁰

Subject to confirmation, BOCSAR has published preliminary findings that most areas immediately proximal to the Sydney CBD and Kings Cross, including parts of Pyrmont, Ultimo, Surry Hills, Elizabeth Bay, Darlinghurst, Chippendale, Haymarket and Rushcutters Bay have experienced stable non-domestic assault figures since January 2014. Additionally, BOCSAR has indicated the report finds distal displacement areas – including Newtown, Bondi Beach, Double Bay and Coogee - over the 16 months post the lockout laws have experienced stable rates of non-domestic assault.¹¹

As shown below, BOCSAR reported figures graphically highlight the change in the number of non-domestic assaults in the Sydney CBD Entertainment Precinct, the Kings Cross Precinct and Newtown between January 2009 and September 2015 as recorded by the NSW Police Force.¹²



Source: NSW Bureau of Crime Statistics and Research

¹⁰ NSW Bureau of Crime Statistics and Research, *Lockouts and Last Drinks Forthcoming Findings*. February 2016. Available at: http://www.bocsar.nsw.gov.au/Pages/bocsar_news/Lockouts-Forthcoming-Research.aspx

¹¹ Ibid.

¹² NSW Bureau of Crime Statistics and Research, *Alcohol Related Violence*. Available at: http://www.bocsar.nsw.gov.au/Pages/bocsar_pages/Alcohol_Related_Violence.aspx

The drop in alcohol-related violence in the NSW Police Kings Cross Local Area Command has allowed the Commander to deploy officers into proactive policing areas. It is understood the proactive crime team has risen to twelve officers, up from four, and a local drug unit has 8 officers, up from three.

Police report now being able to address other offences as they are no longer dealing with the volume of alcohol-related violence.

For instance, figures from BOCSAR show a significant increase in police charges for prostitution offences within the Sydney LGA.¹³ In the 12 months from October 2012 to September 2013 there were just 23 offences recorded, but this rose to 208 from October 2013 to September 2014 and there were 144 offences recorded between October 2014 and September 2015. In the immediate wake of the introduction of lockout and last drinks measures in the area, the number of prostitution offences dramatically increased from 7 in March 2014 to 24 in April 2014.

Exemptions within those precincts

The last drinks and lockout provisions, under the legislation passed by the NSW Parliament in January 2014, do not apply to small bars (those with a maximum capacity of 60 people), restaurants and tourist accommodation establishments.

Venues already approved to trade past 3am could continue to operate dining, entertainment, gaming and non-alcoholic drink services provided no liquor service continued beyond 3am.

An opportunity is also available for liquor licence holders to apply for and, if approved, gain an exemption from the last drinks and lockout provisions. It is noted in the *Liquor Law Reform* background paper¹⁴ that as of 19 February 2016, 16 licensed venues had been granted a lockout exemption and no exemptions to 3am last drinks had been granted.

The PANSW would encourage careful consideration of the significant negative impacts of any growth in the number of venues granted exemptions.

10pm Take-away Liquor Sales Restriction

The PANSW supports the retention of the state-wide stoppage of take-away liquor sales at 10pm.

In its first major report¹⁵ on the impact of the changes to alcohol laws, published in April 2015, BOCSAR indicated the 10pm closures were associated with a 9 per cent decrease in non-domestic related assaults across NSW (excluding the Sydney CBD, Kings Cross Precinct and surrounding areas which may have been impacted by the other changes such as lockouts).

¹³ NSW Bureau of Crime Statistics and Research, Crime Data Tool, Recorded incidents of selected offences in the Sydney Local Government Area, Annual totals and 48 month trend from October 2011 to September 2015. Reference 2016-551307.

¹⁴ NSW Department of Justice, *Liquor Law Review, Department's Background Paper* updated 21 March 2016. Available at: <http://www.justice.nsw.gov.au/justicepolicy/Documents/background-paper-stat-review-lockouts-last-drinks-1.pdf>

¹⁵ Menendez, P; Weatherburn, D; Kypri, K and Fitzgerald, J. (2015). *Lockouts and last drinks: The impact of the January 2014 liquor licence reforms on assaults in NSW, Australia*. BOCSAR NSW Crime and Justice Bulletins, 12.

Although, subject to confirmation through peer review, in February 2016 BOCSAR published preliminary findings¹⁶ that the reduction in non-domestic assault between January 2014 and June 2015 was just 1.4%.

A 2015 report¹⁷ into alcohol and its harms funded by The National Drug Law Enforcement Research Fund (**NDLERF**) notes:

“Strong international evidence exists for the relationship between reducing alcohol outlet opening hours and alcohol consumption.”

The report goes on to note in the Recommendations:

“Australian jurisdictions should consider imposing trading hour restrictions. These restrictions should be applied consistently across regions to ensure businesses can compete on a level playing field.”¹⁸

When considering the negative impacts of the additional availability of alcohol through take-away sales, the PANSW would remind this Review of BOCSAR research which found the rate of domestic and non-domestic violence related assaults accelerated once packaged liquor concentration levels exceeded 0.75 per 1,000 head of population.¹⁹

Periodic Licence Fee System

The PANSW supports increasing fees under the periodic licence fee scheme to recover more of the expenses associated with administering the licensing scheme. While currently periodic licence fees do not fully cover the administration of liquor and gaming regulation²⁰ they do provide beneficial public policy outcomes.

The periodic licence fee scheme provides for improved regulation of licenced venues as inactive licenced businesses can be removed from the register of businesses when their fees remain unpaid.

By having accurate records of active licences, Government agencies are better able to plan alcohol risk-reduction strategies.

Additionally licensees are financially incentivised to reduce alcohol-related harm to their patrons where risk-based fees are in place.

¹⁶ NSW Bureau of Crime Statistics and Research, *Lockouts and Last Drinks Forthcoming Findings*. February 2016. Available at: http://www.bocsar.nsw.gov.au/Pages/bocsar_news/Lockouts-Forthcoming-Research.aspx

¹⁷ A/Prof Peter Miller, Ashlee Curtis, Prof Tanya Chikritzhs and Prof John Toumbourou (2015), *Interventions for reducing alcohol supply, alcohol demand and alcohol-related harm*, Monograph Series No. 57, Funded by the National Drug Law Enforcement Research Fund. Page 6 of the Executive Summary. The full report is available at: <http://www.ndlerf.gov.au/publications/monographs/monograph-57>

¹⁸ Ibid. Page 17 of the Executive Summary.

¹⁹ Donnelly, N; Menendez, P and Mahoney, N (December 2014). *The effect of liquor licence concentrations in local areas on rates of assault in New South Wales*. NSW Bureau of Crime Statistics and Research Contemporary Issues in Crime and Justice, 181. Available at: <http://www.bocsar.nsw.gov.au/Documents/CJB/CJB181.pdf>

²⁰ NSW Department of Justice, *Liquor Law Review, Department's Background Paper* updated 21 March 2016. Page 6. Available at: <http://www.justice.nsw.gov.au/justicepolicy/Documents/background-paper-stat-review-lockouts-last-drinks-1.pdf>

Additional Assistance Measures for Alcohol Harm Reduction

The PANSW also encourages this Review to consider how **Liquor Accords**²¹ assist local communities to tackle alcohol-related violence, anti-social behaviour and associated impacts on families. Through Liquor Accords, community members - including relevant licensees, local government representatives and police – directly participate in seeking to address local alcohol-related issues including violence and the presence of highly-intoxicated people in public places.

However, the 2015 report funded by NDLERF²² notes:

“Despite the growing popularity of accords and other types of voluntary ‘codes of conduct’, few have been formally evaluated and, among those that have, most evaluations have been unable to demonstrate effectiveness in reducing alcohol-related harms in either the short – or (particularly) long-term. In addition, a fundamental weakness of accords is their reliance on voluntary commitments from individuals who operate in a highly competitive profit-orientated industry...”²³

There would be a direct community benefit for Liquor Accords to have the structure and authority to positively impact upon the amenity of local communities struggling with alcohol-related problems.

Members of the PANSW seek to ensure no action is recommended nor taken to wind back on the ability of the NSW Police Force to issue **Temporary Banning Orders** and **Long-term Banning Orders**. These orders provide police with an ability to ensure troublemakers are kept out of high-risk venues since they were introduced following the passage of legislation²⁴ in late 2013. Police officers report a positive community safety outcome of long-term banning orders has been the subjects of such orders avoiding the entertainment district entirely.

It is understood Liquor & Gaming NSW has undertaken a review of **ID scanners** in Kings Cross high-risk venues²⁵ - which have been in operation since June 2014²⁶ - and the outcome of their review will in turn now advise this Review. The PANSW has been informed by local Police Officers they are an important tool in preventing those subject to a long-term or temporary banning order from entering premises with scanners. They also provide an important source of identification for offenders should an incident occur.

Members of the PANSW support the retention of ID scanners, with continued appropriate security and privacy protections, and the extension of such scanners to high-risk venues in other precincts where appropriate.

²¹ Further information on Liquor Accords is available at: <https://www.liquorandgaming.justice.nsw.gov.au/Pages/liquor/liquor-accords.aspx>

²² A/Prof Peter Miller, Ashlee Curtis, Prof Tanya Chikritzhs and Prof John Toumbourou (2015), *Interventions for reducing alcohol supply, alcohol demand and alcohol-related harm*, Monograph Series No. 57, Funded by the National Drug Law Enforcement Research Fund. Available at: <http://www.ndlerf.gov.au/publications/monographs/monograph-57>

²³ Ibid. Page 17. Available at: <http://113.20.25.135/sites/default/files/publication-documents/monographs/monograph-57.pdf>

²⁴ *Liquor Amendment (Kings Cross Plan of Management) Bill 2013*, passed by the NSW Parliament on 16 October 2013.

²⁵ Further information is available at: <https://www.liquorandgaming.justice.nsw.gov.au/Pages/public-consultation/community-consultation/have-your-say.aspx#KingsCrossIDScannerreview>

²⁶ Further information is available at: http://www.justice.nsw.gov.au/Documents/Media%20Releases/olgr/2014/rel_20140611_id_scanners_go_live.pdf

The *Liquor Act 2007* contains provisions relating to the **short-term and long-term closure** of licensed premises.²⁷ It is important licensing authorities are able to directly impact the trading of licensed premises where a serious breach of the Liquor Act occurs that puts at risk the public interest. The PANSW supports the retention of such orders and would ask where operational gaps in such closure orders are identified they are addressed.

Similarly the Liquor Act contains provisions commonly known as **Three Strikes**²⁸ which deliver progressively more serious disciplinary action where prescribed offences are committed. Again the PANSW supports the retention of Three Strikes and the addressing of operational gaps identified during the current statutory review of the Three Strikes Disciplinary Scheme.

Further Information

Should the Review have questions about this submission the Police Association of NSW would be pleased to provide further information. The PANSW has no objection to this submission being published in its entirety.

Members of the Police Association of NSW would encourage this Review to carefully consider any submissions provided by the New South Wales Police Force, our fellow members of the NSW and ACT Alcohol Policy Alliance (**NAAPA**), the Foundation for Alcohol Research and Education (**FARE**) as well as our fellow members of the *Last Drinks* coalition including the Australian Salaried Medical Officers' Federation of NSW, NSW Nurses and Midwives' Association and Health Services Union.²⁹

²⁷ Part 5, Division 4 of the *Liquor Act 2007* No 90. Available at: <http://www.legislation.nsw.gov.au/maintop/view/inforce/act+90+2007+cd+0+N>

²⁸ Part 9A of the *Liquor Act 2007* No 90.

²⁹ A list of members of NAAPA is available at: <http://naapa.org.au/members/>
A list of members of the *Last Drinks* coalition is available at: <http://lastdrinks.org.au/about/>