
LIQUOR LAW REVIEW

NEW SOUTH WALES DEPARTMENT OF JUSTICE

April 2016

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1. Terms of Reference

1. The impacts of the 1.30am lock out and 3am cessation of liquor sales requirements on:
 - a. alcohol-related violence and anti-social behaviour in the Sydney CBD Entertainment Precinct, Kings Cross Precinct, potential displacement areas, and the broader community;
 - b. safety and general amenity in the Sydney CBD Entertainment Precinct, Kings Cross Precinct, and potential displacement areas;
 - c. 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).
2. 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.
3. The impact of the periodic licensing system on business viability and vibrancy.

2. 1.30am lock out and 3am cessation of liquor sales

Alcohol-related violence

Introduction:

The review panel will of course be aware that on 15 January 2014, prior to the new government measures being introduced, the Bureau of Crime Statistics and Research (BOCSAR) issued a media release¹ clarifying that the incidents of assault in Kings Cross (and indeed NSW-wide) are either stable or on the decline over a 2-year and 5-year period. Significantly, it showed an average annual downturn in assaults in licensed premises in Kings Cross of around 30%. These figures indicate that incidents of violence in this area were appreciably declining before the implementation of recent measures. The table of results and corresponding graphs are displayed below.

	Postcode 2011		Kings Cross LAC		NSW	
Period	On licensed premises	Off licensed premises	On licensed premises	Off licensed premises	On licensed premises	Off licensed premises
2 yr trend and average annual percentage change	-20.2	Stable	-19.6	Stable	Stable	-3.7
5 yr trend and average annual percentage change	-5.5	Stable	Stable	Stable	-7.2	-3.9

¹ Bureau of Crime Statistics and Records, 'Trends in assault in Kings Cross' (Media release, 15 January 2014) <http://www.bocsar.nsw.gov.au/Pages/bocsar_media_releases/2014/mr_20140115_assault.aspx>.

Fig 1: Number of non domestic assault incidents recorded by the NSW Police Force as having occurred on and off licensed premises in postcode 2111

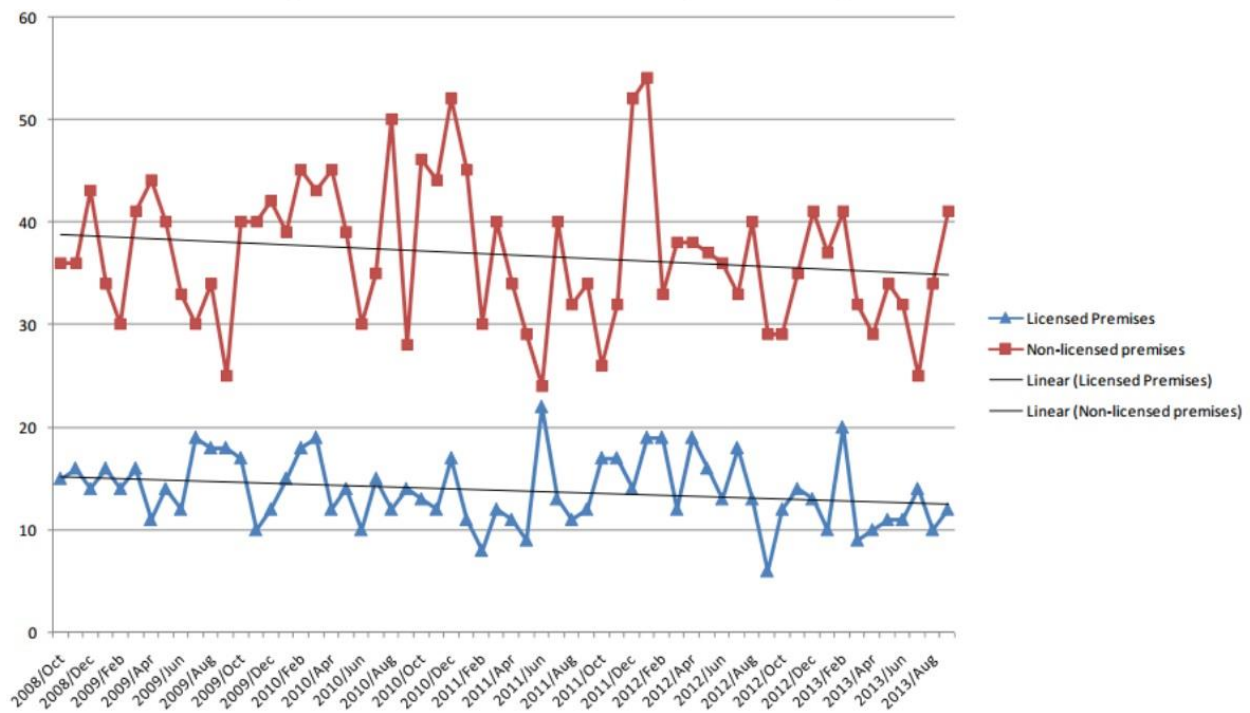
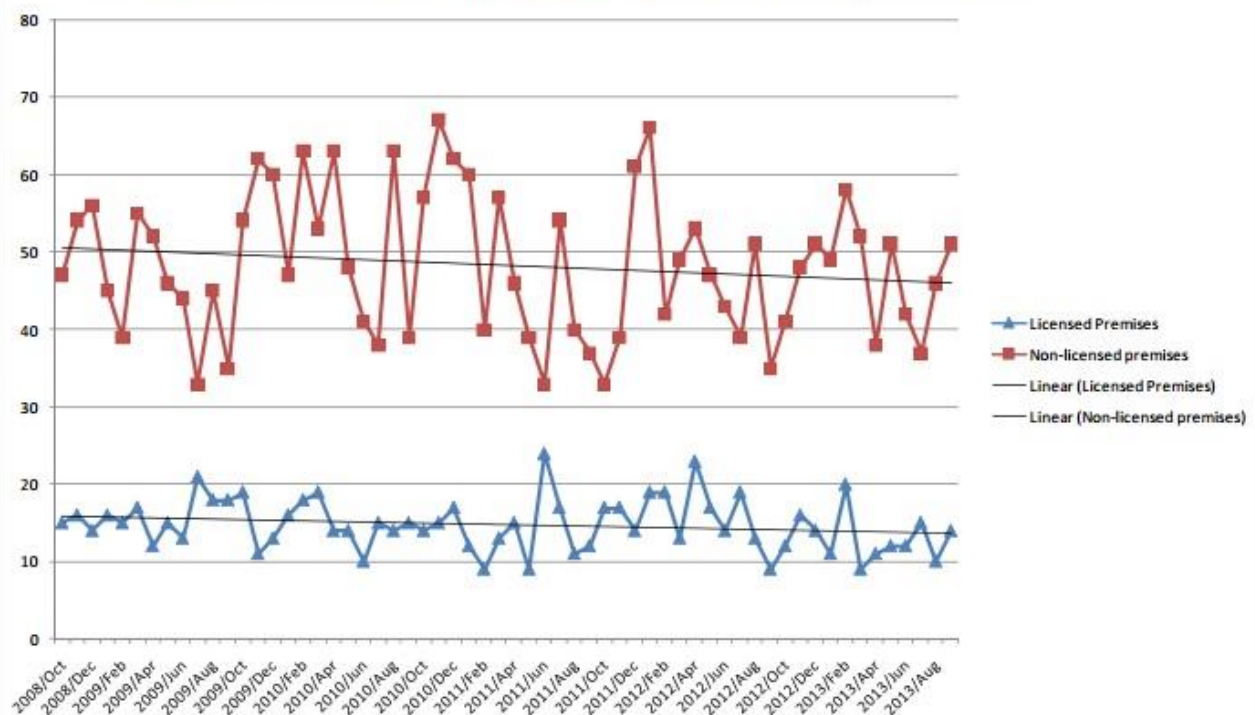


Fig. 2: Number of non domestic assault incidents recorded by the NSW Police Force as having occurred on and off licensed premises in Kings Cross LAC



I consider that the BOCSAR statistics are the best available information on incidents of violence in which alcohol is a contributing factor. Accordingly, it is my submission that incidents of alcohol-related violence in New South Wales have been in decline, in spite of media reports which tend to imply the contrary.

This is corroborated by data from NSW Health, which show that hospitalisation for interpersonal assault is declining and at an all-time low, both generally and for young males.²

Given that there is a long-term downward trend in the level of violence in the Sydney CBD, any further downward trend must be considered in that light.

Sydney CBD and Kings Cross:

The ideal starting point for this analysis is the statistics provided by the NSW Police Force regarding the number of non-domestic violence related assault incidents recorded as having occurred in Sydney City LAC, Kings Cross LAC, and Greater Sydney Statistical Area.³ The below charts and table use raw data released by BOCSAR.⁴

² HealthStats NSW, 'Interpersonal-violence – related hospitalisations' <http://www.healthstats.nsw.gov.au/indicator/inj_violhos>.

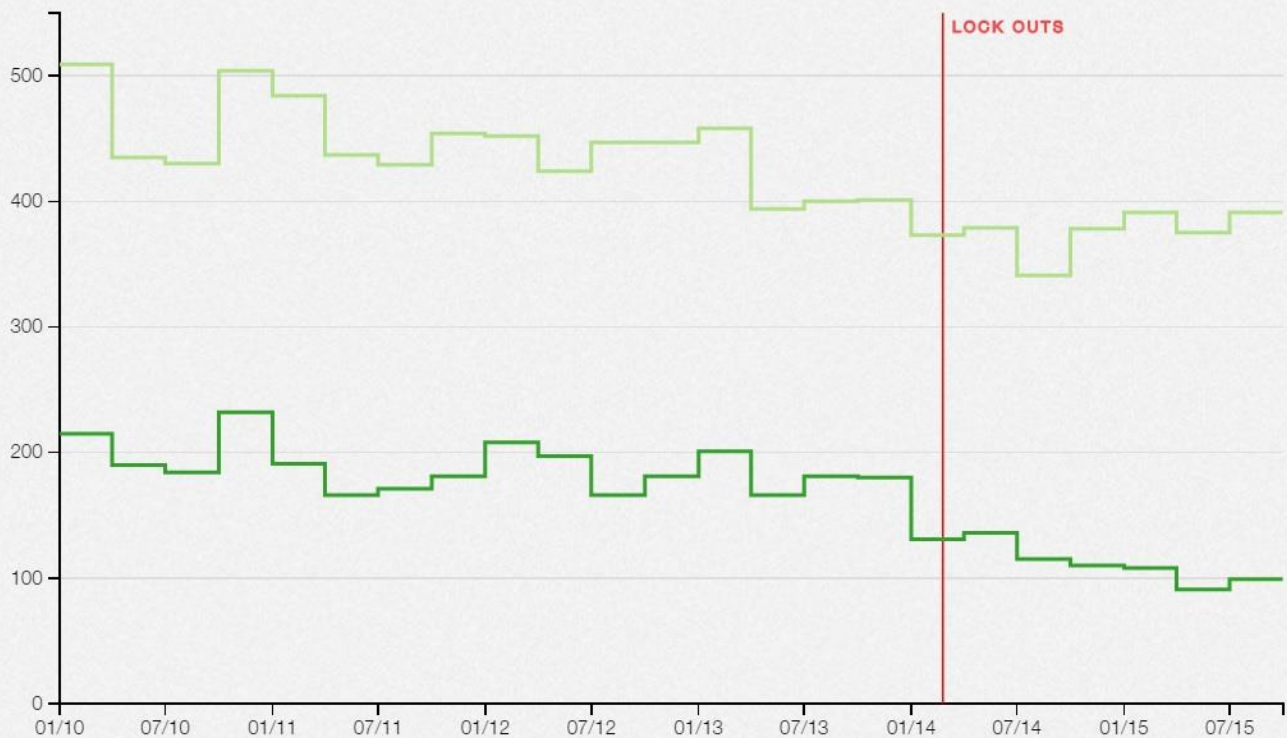
³ Greater Sydney Statistical Area is comprised: Central Coast, Baulkham Hills and Hawkesbury, Blacktown, City and Inner South, Eastern Suburbs, Inner South West, Inner West, North Sydney and Hornsby, Northern Beaches, Outer South West, Outer West and Blue Mountains, Parramatta, Ryde, South West and Sutherland.

⁴ Ken Macleod, 'Sydney non-domestic violence related assault incidents 2010-2015', *SBS News* (online), 16 April 2015 <<http://www.sbs.com.au/news/interactive/nsw-assaults>>.

TOTAL INCIDENTS

Number of non-domestic violence related assault incidents recorded by the NSW Police Force, calculated quarterly.

■ Sydney City LAC
 ■ Kings Cross LAC



	Sydney City	Kings Cross
Average incidents pre lockout per quarter (Jan 2010 - Dec 2013)	444	188
Average incidents post lockout per quarter (Apr 2014 - Oct 2015)	376	110
Average change between pre and post lockout incidents per quarter	-68	-78
Average change between pre and post lockout incidents per quarter (%)	-15.3%	-41.5%

The following observations can be made from the above graph:

- Since the introduction of the lock outs, the downward trend in frequency of assaults has slowed down in Sydney City.
- Since the introduction of lock out laws, the downward trend in frequency of assaults has sped up slightly in Kings Cross.

Midnight till 3am

■ Sydney City LAC
 ■ Kings Cross LAC



	Sydney City	Kings Cross
Average incidents pre lockout per quarter (Jan 2010 - Dec 2013)	133	56
Average incidents post lockout per quarter (Apr 2014 - Oct 2015)	101	28
Average change between pre and post lockout incidents per quarter	-32	-28
Average change between pre and post lockout incidents per quarter (%)	-24.1%	-50%

The following observations can be made from the above graph:

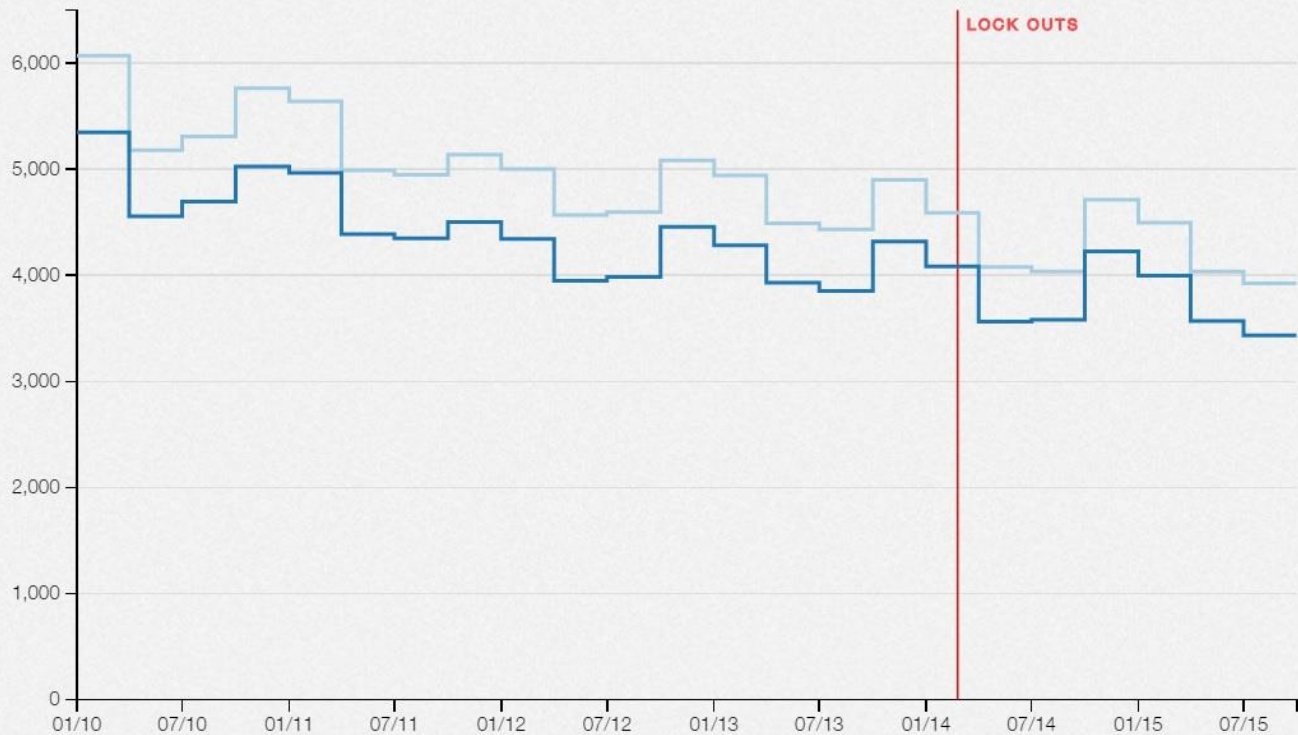
- Since the introduction of the lock outs, the downward trend in frequency of assaults has slowed down in Sydney City between midnight and 3am.
- Since the introduction of lock out laws, the downward trend in frequency of assaults has sped up slightly in Kings Cross between midnight and 3am.

Potential Displacement Areas and the Greater Sydney Statistical Area:

TOTAL INCIDENTS

Number of non-domestic violence related assault incidents recorded by the NSW Police Force, calculated quarterly.

Greater Sydney Greater Sydney excluding Kings Cross LAC and Sydney City LAC



	Greater Sydney	Greater Sydney (ex City/Cross)
Average incidents pre lockout per quarter (Jan 2010 - Dec 2013)	5065	4433
Average incidents post lockout per quarter (Apr 2014 - Oct 2015)	4214	3728
Average change between pre and post lockout incidents per quarter	-851	-705
Average change between pre and post lockout incidents per quarter (%)	-16.8%	-15.9%

From this graph it is quite evident that the downward trend which existed prior to the introduction of the lock out laws has more or less maintained its rate of decline.

Midnight till 3am

Greater Sydney Greater Sydney excluding Kings Cross LAC and Sydney City LAC



	Greater Sydney	Greater Sydney (ex City/Cross)
Average incidents pre lockout per quarter (Jan 2010 - Dec 2013)	795	607
Average incidents post lockout per quarter (Apr 2014 - Oct 2015)	556	415
Average change between pre and post lockout incidents per quarter	-239	-192
Average change between pre and post lockout incidents per quarter (%)	-30.1%	-31.6%

Again, from this graph it is quite evident that the downward trend which existed prior to the introduction of the lock out laws has more or less maintained its rate of decline.

Discussion:

The statistics from BOCSAR suggest that Sydney's lock out laws have not helped to significantly reduce the number of assaults.

It is established that incidents of assaults have been steadily falling since before the introduction of lock out laws. The graphs demonstrate the lock out laws have reduced the rate at which incidents of assault were falling in Sydney City LAC. They have not had such an effect in the Kings Cross LAC.

Interestingly, the data also demonstrates that there has been a greater drop in the number of assaults between midnight and 3am– the major target of lock out laws– in the Greater Sydney area than within the lock out zone.

- Assaults between midnight and 3am in Greater Sydney: Down **31.6%**
- Assaults between midnight and 3am in the Sydney City: Down **24.1%**

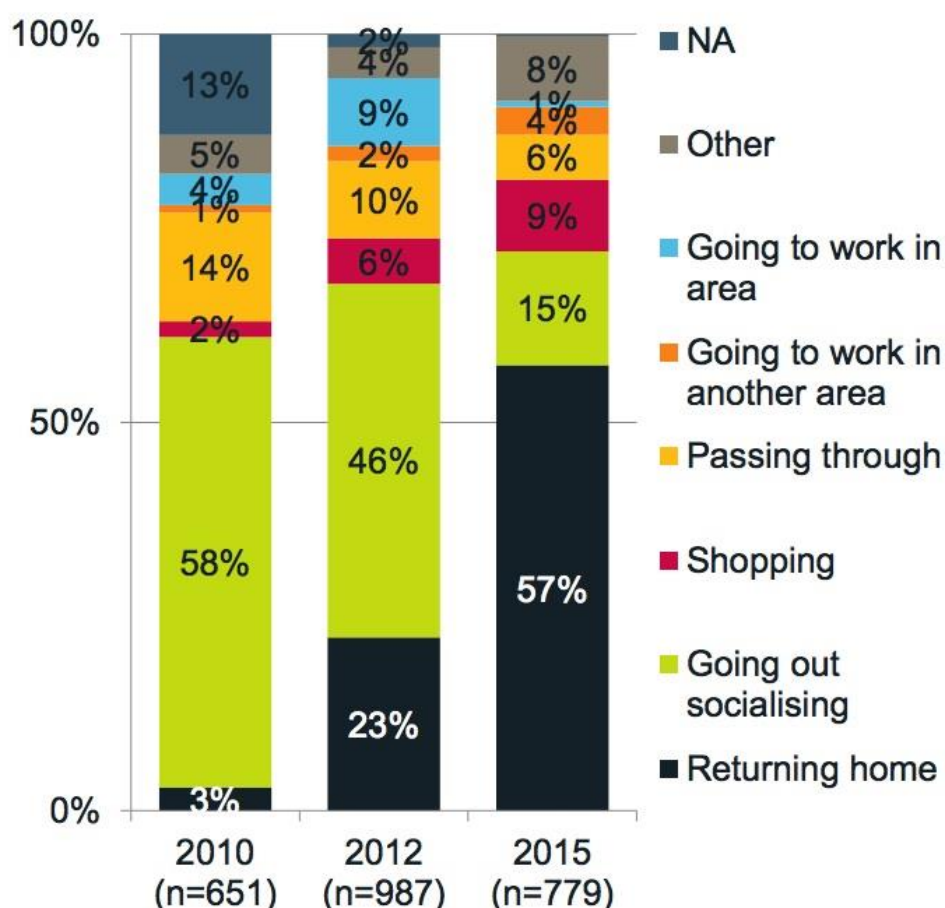
From this, it can be deduced that the 1:30am lock out and 3am cessation of liquor sales have not had the intended effect of significantly reducing alcohol-related assaults in the Sydney City area.

In respect of the Kings Cross area, the data shows a 41.5% drop in total incidents and a 50% drop between midnight and 3am. The corresponding graphs show an increase in the rate at which assaults were falling. However, as discussed earlier, any such increase must be considered in relation to the trend which was already in effect prior to the introduction of the lock out laws. As Director of BOCSAR, Don Weatherburn, puts it, the lock out laws accelerated this existing downward trend. The

findings of a BOCSAR report released last April analysing the first eight months of the data since lock out laws were introduced, which adjusted for the pre-existing decline, found that assaults in Kings Cross fell by 32% and in Sydney City by 26%.⁵

The numbers above represent the percentage drop in *total* assaults in the Kings Cross and Sydney City area. To obtain an accurate picture of the frequency of assaults, it is important that the numbers be considered in light of the decreased patronage since the introduction of the lock out laws.

Reason for visiting the NTE 2015, 2012, and 2010 comparison



⁵ Patricia Menendez, Don Weatherburn, Kypros Kypri and Jacqueline Fitzgerald, 'Lockout and last drinks: The impact of the January 2014 liquor licence reforms on assaults in NSW, Australia' (2015) 183 *Crime and Justice Bulletin*.

The chart above breaks down the results of surveys conducted by City of Sydney in 2010, 2012 and 2015 which asked patrons their reason for visiting Sydney late at night.⁶ In 2010, 58% of respondents said they were “going out socialising”, with a further 2% out “shopping”. Comparatively, in 2015 only 15% of patrons were “going out socialising” with another 9% out “shopping”. In other words, if we were to categorise these two answers into a group simply referred to as people “going out”, there has been a 60% drop in people “going out” in Sydney late at night.

As the survey was not conducted in 2014 around the time of the introduction of the lock out laws, the trend in foot traffic decrease was used to determine the likely portion of patrons “going out” in 2014. That number was 34%.

Given this 34% reduction in foot traffic from 2014 to 2015 (i.e. during the effective time of the lock out laws), we should expect a 34% decrease in the number of incidents in lock out areas simply to *break even* with the frequency of incidents which existed prior to the introduction of lock out laws. Taking this decrease in foot traffic into account, the 32% (Kings Cross) and 26% (Sydney City) drops in incidents would suggest the introduction of lock out laws have *increased* the rate of alcohol-related violence by 2% in Kings Cross and 8% in Sydney City. As such, it would be fair to conclude that the lock out laws have failed to reduce alcohol-related violence. Meanwhile, the number of incidents in the Greater Sydney area has been steadily falling as before 2014.

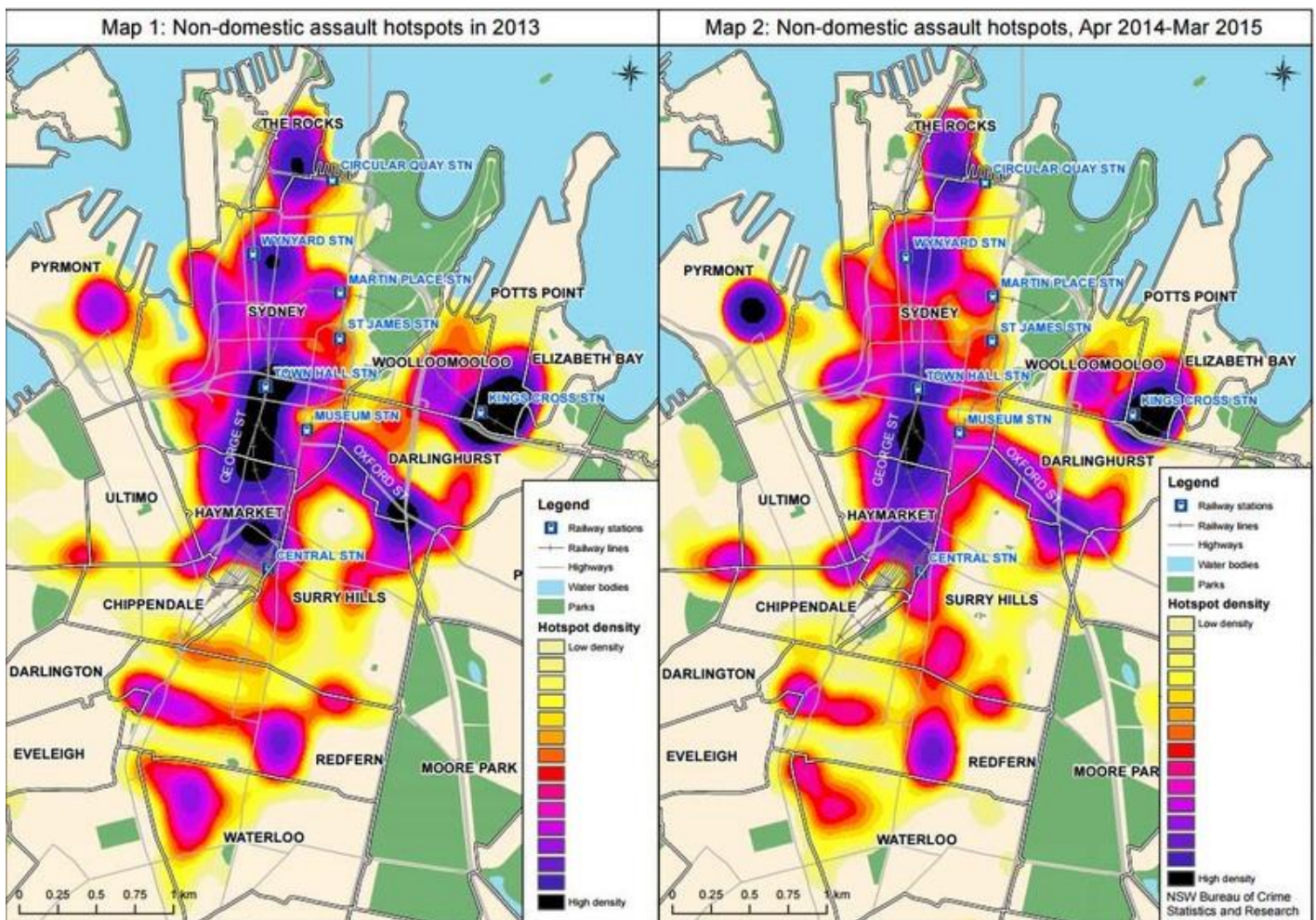
⁶ City of Sydney, *Late Night Management Areas Research Phase 4 Report* (2015), 48
<http://www.cityofsydney.nsw.gov.au/__data/assets/pdf_file/0011/250202/2015-541941-Report-Late-Night-Management-Areas-Research-Final.pdf>.

On a final note, it should be noted that despite Mike Baird's suggestion that violence in nearby areas has not increased, sources show that this is in fact the case. BOCSAR found that the Star casino recorded an average of 6.3 assaults per month in 2014, up from 3.5 in the corresponding period for 2013. This is roughly three times the number recorded for the central Sydney nightclub Ivy, which was named in December 2014 as NSW's most violent venue.⁷ Similarly, there has been an 18% increase in the number of alcohol-related attacks in Newtown since the introduction of the lock out laws, 375% increase in Petersham, and a 31% increase in Glebe.⁸ Reference to BOCSAR's assault hotspots map below demonstrates that:

- Kings Cross and surrounding suburbs still have instances of violent altercations, although slightly down;
- Redfern, Waterloo and Surry Hills have seen an increase in violence;
- Pyrmont has seen a very noticeable increase in violent assaults, most likely due to the Star's exclusion from the lockout laws.

⁷ Sean Nicholls, 'Star casino may be the most violent venue but exempt from restrictions', *The Sydney Morning Herald* (online), 21 April 2015 <<http://www.smh.com.au/nsw/star-casino-may-be-the-most-violent-venue-but-exempt-from-restrictions-20150420-1morb6.html>>.

⁸ Francesca Wallace and Michael Koziol, 'The new Kings Cross: lockout laws send revellers to Newtown', *The Sydney Morning Herald* (online), 21 June 2015 <<http://www.smh.com.au/nsw/newtown-gets-busy-as-kings-cross-empties-20150619-ghseco.html>>.



Any suggestion that violence has not simply relocated is dubious at best.

Comments made by Mike Baird:

On 9 February 2016 Mike Baird took to social media to provide his point-of-view on the effects of the lock out laws. Relevant portions are provided and then discussed below:

1. *“Alcohol related assaults have decreased by 42.2 per cent in the CBD since we introduced the “lock-out laws”. And they’re down by over 60 per cent in Kings Cross.”*

As demonstrated above, this statistic is thoroughly inaccurate. Either by miscalculation or in an effort to exaggerate the success of the lock out laws, Mike Baird has failed to take into account the pre-existing downward trend in alcohol-related assaults and the reduction in patronage since the lock out laws were introduced. Accordingly, Mike Baird's figure should be wholly ignored.

2. *"But... didn't we achieve this by shutting down the whole city and killing its nightlife? Well, one last statistic: the number of small bars in Sydney has more than doubled in the same time period."*

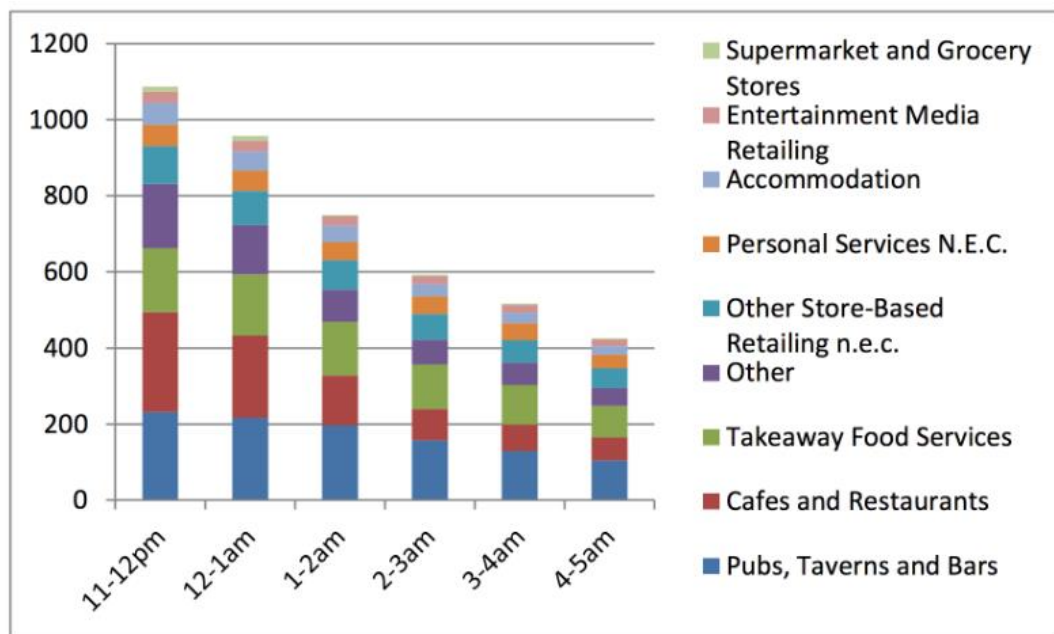
As Baird fails to give much clarity, one can only assume that the statistic is taken from a City of Sydney survey which assesses the number of businesses open during different times of the night in Sydney. This survey was undertaken in 2010,⁹ 2012¹⁰ and 2015.¹¹ All three are displayed below.

⁹ City of Sydney, *Late Night Management Areas Research Project* (2011), 41
<http://www.cityofsydney.nsw.gov.au/__data/assets/pdf_file/0017/131741/LateNightManagementAreaResearchReport.pdf>.

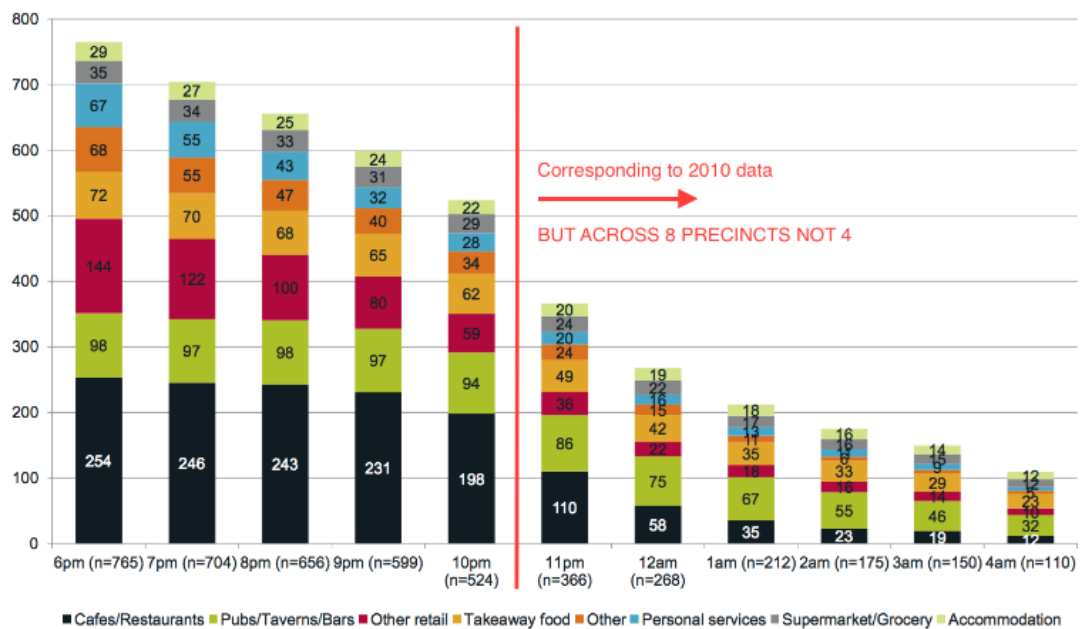
¹⁰ City of Sydney, *Late Night Management Areas Research - Phase 3 Report* (2013), 26
<http://www.cityofsydney.nsw.gov.au/__data/assets/pdf_file/0014/200129/Late-Night-Management-Areas-Research-Phase-3-report-December-2012.PDF>.

¹¹ City of Sydney, above n 6, 36.

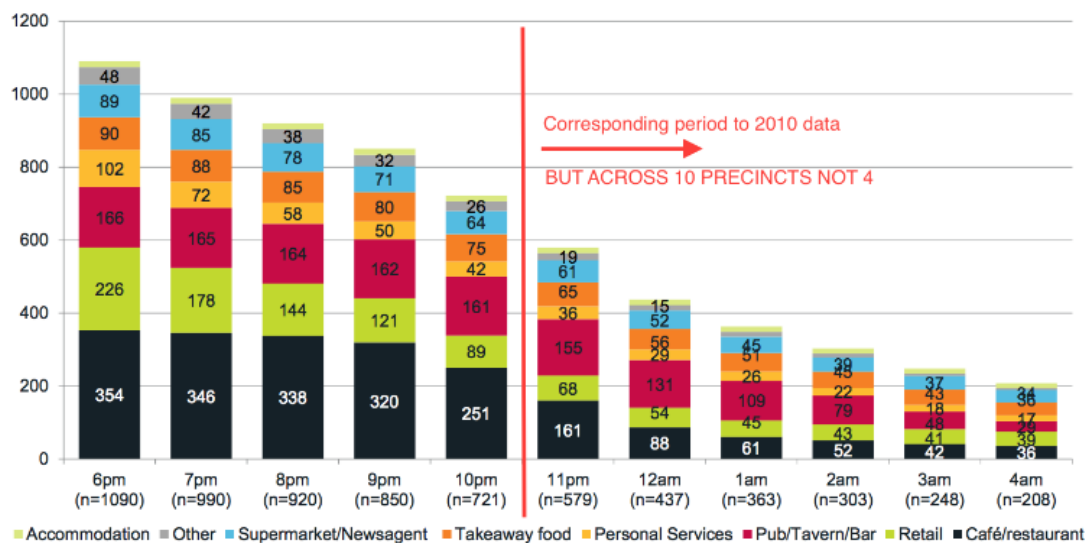
2010
Survey



2012
Survey



2015
Survey



Since the original survey undertaken in 2010, City of Sydney has altered the manner in which it presents the data collected from this survey.

Firstly, the survey taken in 2010 was run from 11pm – 5am. The subsequent surveys undertaken in 2012 and 2015 were both run 6pm – 5am. This change could have very well been done to boost the numbers of businesses open in an effort to give efficacy to regulatory measures imposed post 2010. The data in the 2012 and 2015 surveys which correspond to the 2010 survey are indicated in each graph as being to the right of the red line. The corresponding statistics are tabulated below.

	11pm	1am	4am
2010	~1075	~750	~415
2012	366	212	110
2015	579	363	208

When comparing the number of businesses open at the same time of the night, it is abundantly clear that the number of businesses open have significantly diminished between 2010 and 2012. The decrease in raw statistics are further exacerbated when we take into consideration that the 2012 survey examined a larger geographical area than the 2010 survey. The 2012 report measured the number of open businesses in 8 areas- George Street, Oxford Street and Kings Cross and five of the City's main streets: King Street, Crown Street, Glebe Point Road, Harris Street and Redfern Street. Comparatively, the 2010 survey only covered 4 precincts- Kings Cross, Oxford Street, the Rocks and the CBD South.

Following on, it would appear as if the number of small businesses have increased between 2012 and 2015, i.e. before and after the introduction of lock out laws. However, once again, the geographical area surveyed was expanded for the 2015 survey, now encompassing 10 precincts- five Sydney CBD Entertainment Precincts (Central CBD, North CBD, South CBD, Kings Cross and Oxford Street) and five City Suburban Precincts (Pyrmont, Newtown, Surry Hills, Redfern and Glebe). Without making any suggestions as to why this expansion was adopted, it has allowed Mike Baird to falsely suggest that small businesses have thrived since the introduction of lock out laws.

In conclusion, in no instance has *“the number of small bars in Sydney... more than doubled”*. Even with the misleading data provided by City of Sydney, the 2012 and 2015 surveys never demonstrate a doubling of the number of small business open at any given time in Sydney. Mike Baird’s assertion is categorically false.

3. *“The main complaints seem to be that you can’t drink till dawn any more and you can’t impulse-buy a bottle of white after 10pm. I understand that this presents an inconvenience. Some say this makes us an international embarrassment. Except, assaults are down by 42.2 per cent. And there is nothing embarrassing about that.”*

As discussed earlier, the 42.2% decline in assaults is grossly inaccurate and should not be taken on face value.

4. *“From the outset, these laws have been about fixing a serious problem. Violence had spiralled out of control, people were literally being punched to death in the city, and there were city streets too dangerous to stroll down on a Friday night. The community was rightly outraged.*

First and foremost, the violence had not “spiralled out of control” as evinced by the data provided above by BOCSAR which suggests assaults in the Kings Cross area and Greater Sydney were declining prior to the introduction of lock out laws.

As for the suggestion that “people were literally being punched to death in the city”, while technically there had been assaults occasioning death in Sydney, this was hardly a basis on which to impose the type of lock out laws imposed by the government. Firstly, as previously discussed, the lock out laws have only exacerbated the problem by increasing the frequency of alcohol-related violence. Second, the assaults occasioning death to which Mike Baird refers both occurred earlier than the lock out time of 1:30am (Kelly being 10:05pm and Christie being 9pm). It would be understandable for someone to question the motives of the lock out laws given this fact.

The assertion that “city streets were too dangerous to stroll down” is similarly unfounded. If the submissions made to the Measures to Reduce Alcohol and Drug-Related Violence inquiry by the NSW Parliament Law and Safety Committee are anything to go by, most patrons and Kings Cross residents seem to feel that the laws have made Kings Cross into what one submission described

as a “ghost town”, making it eerily difficult to travel through. High profile music performer and Kings Cross resident Nina Agzarian (stage name ‘Nina Las Vegas’) shared the same sentiment recently on Mike Baird’s Facebook profile, commenting, “as a Kings Cross resident, I feel unsafe to walk home as there is literally NO ONE around, including police officers”.

5. *“We introduced laws to curb violence and to eliminate drinking ghettos by redistributing the nightlife across the city, making the whole city more vibrant.”*

As discussed under quote 1 and 2, the lock out laws have systematically increased alcohol-related violence, heavily reduced foot traffic and socialising in the City, and decimated the viability of businesses in various precincts in the City. On this basis, I reject the notion that the laws have “curb[ed] violence” or “[made] the whole city more vibrant”.

6. *“Doctors right across the city are now telling us that they are seeing far less emergency room presentations on the weekends.”*

Mike Baird chose not to provide any clear statistics in this regard. As such, I will discuss this point generally and with brevity.

As provided in support of my suggestion that assaults had been declining prior to the introduction of lock out laws, HealthStats NSW provides the most reliable

figures on the number of interpersonal assaults in NSW since 2001.¹² It is clear from these figures that assaults were on a strong downward trend and, even if we were to ignore the figures which show lock out laws have *increased* rates of assault, it is hardly a compelling point that there have been “far less” assault victims presenting to a hospital. This is especially the case considering Mike Baird’s failure to provide any credible statistics to this effect.

7. *“Small bars and restaurants are opening across Sydney.”*

Discussed above, see quote 2.

8. *“And residents across the city, particularly women, are telling us they feel safer walking home at night.”*

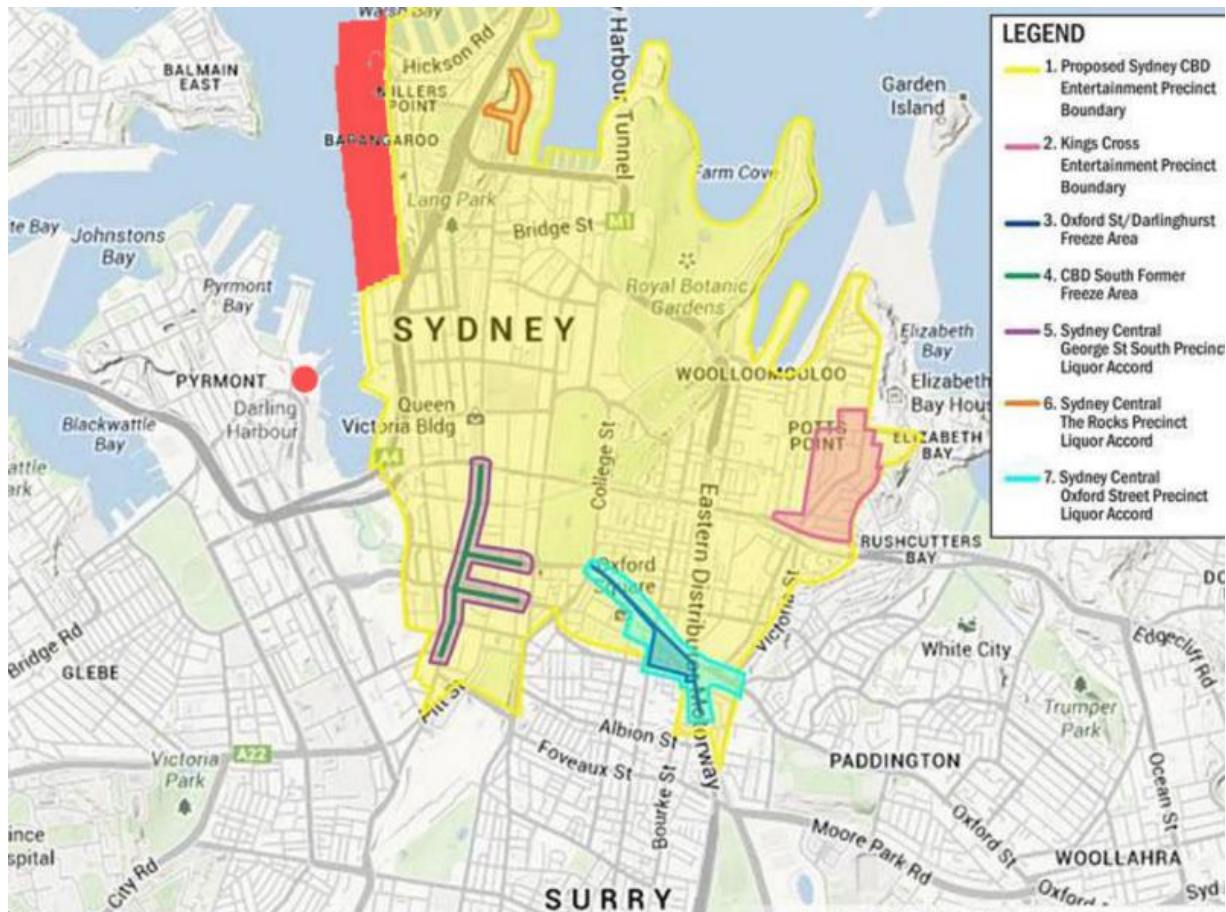
Discussed above, see quote 4.

Other Considerations:

There is one other major concern I feel must be raised before the review panel regarding alcohol-related violence. I refer of course to the exemption of both Barangaroo and Star casinos.

¹² HealthStats NSW, above n 2.

Undoubtedly the panel is familiar with the geographical scope of the lock out laws. As highlighted on the following map, the two casino sites are both conveniently left just outside the boundary of the lock out laws.



Both of these venues hold 24/7 licenses to serve alcohol despite the government's supposed intention to reduce alcohol-related violence. As stated in the discussion of alcohol-related violence above, the Star has the highest rate of incidents in NSW, even more than that of Ivy. Under the government's regulation scheme, trading restrictions are to be imposed on venues which record more than 19 alcohol-related assaults in a year. Despite recording 75 over the past year, the Star has been exempt from the violent venues scheme since its inception in 2008. It is also exempt from the "Three Strikes" scheme under which venues face loss of their liquor license

for repeated breaches of licencing laws. The most recent annual report of the Independent Liquor and Gaming Authority (ILGA) revealed the Star was fined or censured 12 times during 2013-14 for license breaches. Twice it was fined for permitting intoxication in the casino and once for permitting intoxication in its Marquee nightclub – each an offence that would usually incur a strike.¹³

The government's failure to impose lockout laws has undoubtedly contributed to the funnelling of party goers to the casino precincts. Given the well-known connection between gambling and suicide,¹⁴ gambling and depression,¹⁵ and gambling and domestic violence,¹⁶ in no way could this be considered to be in the public interest.

In light of the government's rhetoric regarding alcohol-related violence and its negative effect on the community, it is my strenuous submission that the efficacy of the lockout laws be considered in the context of the government's choice not to enforce similar restrictions on Barangaroo and Star casinos.

¹³ Nicholls, above n 7.

¹⁴ 'Exposing the links between gambling and suicide', *SBS News* (online), 9 October 2013 <<http://www.sbs.com.au/news/article/2013/10/09/exposing-links-between-gambling-and-suicide>>.

¹⁵ Dan Harrison, 'Gambling linked to depression', *The Sydney Morning Herald* (online), 15 June 2008 <<http://www.smh.com.au/national/gambling-linked-to-depression-20080614-2qo2.html>>.

¹⁶ Tom Nightingale, 'Study unearths hidden link between domestic violence and gambling', *ABC News* (online), 5 September 2013 <<http://www.abc.net.au/news/2013-09-05/study-unearths-hidden-link-between-domestic/4938062>>.

Anti-social behaviour

According to data collected by City of Sydney, anti-social behaviour in Sydney has dropped 80% since 2012. However, the largest drop occurred before the lockdown laws came into effect, specifically between 2010 and 2012.¹⁷

Of the 1,465 incidents of anti-social behaviour incidents recorded in the 2015 survey, 52% were “non-serious: making noise, horsing around, singing or playing”; 38% of incidents were less “less serious: drunken behaviour like vomiting, staggering, and public urination”.¹⁸

Interestingly, the peak anti-social behaviour incident occurred at 3am, which coincided with last drinks orders and closing times for many venues. In other words, the imposition of last drinks contributed to the mass exodus of patrons from their respective venues, likely increasing the likelihood of anti-social behaviour occurring.¹⁹ Furthermore, the survey found that there was no observable relationship between the concentration of licensed premises and the incidence of anti-social behaviour.²⁰

Given the triviality of most anti-social behaviour transpiring in Sydney and the fact that anti-social behaviour was heavily in decline between 2010 and 2012 in

¹⁷ Nick Jarvis, ‘New research confirms that Sydney’s streets are dead at night’, *inthemix* (online), 3 February 2016 <<http://inthemix.junkee.com/new-research-confirms-that-sydneys-streets-are-dead-at-night/137685>>.

¹⁸ City of Sydney, above n 6, 4.

¹⁹ *Ibid.*

²⁰ *Ibid.*

comparison to 2012 and 2015, I submit that the issue of anti-social behaviour weigh against the choice to retain lock out laws. Much of the conduct described can be much more simply and cost-effectively addressed through non-restrictive measures.

3. Periodic licensing system

Music venues: business viability and vibrancy

Business operators in the Oxford Street and Kings Cross areas have raised their concerns with the City, claiming that over 200 people have lost jobs, some businesses have closed down and many others are struggling to survive since the new measures were introduced. Additionally, feedback from the live music sector is that the new measures have had a negative impact on the programming of live music and performance in the CBD precinct.

Musicians have cited loss of employment opportunities in CBD venues and the Sydney CBD Entertainment precinct, while venue operators have cited loss of patrons, event bookings moving to venues outside the Sydney CBD and to illegal warehouse venues and a significant change in promoter & booking agent perceptions of CBD venues.

In March 2014 there were approximately 93 live music venues in the Sydney CBD Entertainment and Kings Cross precincts. This represents a variety of venue types ranging from dedicated live music venues through to licensed venues programming live music occasionally. While the City acknowledges that there has been a reduction in alcohol-related incidents in the CBD and Kings Cross, the measures used to

achieve this outcome risk the viability of live music and performance in the Sydney CBD, reduce income to musicians (among Australia's lowest paid workers) and performance technical staff and impact the diversity of leisure options available to visitors and residents in Sydney at night.

Additionally, the current measures do not recognise that many of these venues do not exist solely to sell alcohol. For example, the freeze on new licenses means that no new licensed live music venues can be established while the measure are in place, irrespective of their contribution to the cultural life of Sydney or the level of risk they actually pose.

There are currently limited alternative options in late night activities for young people. Live music has been identified by young people as the first preference for live entertainment. The opportunities sit not only in the audiences' ability to access alternative entertainment but also in live performance opportunities for young performers.

Live music and performance activity has a significant role to play in changing the night time environment in central Sydney. Qualitative research undertaken previously suggests that such activity can have the effect of reducing alcohol consumption and/or providing a safer, more welcoming environment.

In 2011 Deloitte Access Economics published *The Economic, Social and Cultural Contribution of Venue-Based Live Music In Victoria*, which stated that, "it was overwhelmingly indicated that live music can have positive impacts for the

community- 92% of patrons surveyed believe that live music in venues improves quality of life, and 84% believe it provides a welcoming and safe environment. These findings are supported by evidence obtained through consultations, where it was suggested that live music in venues can be a solution to many actual or potential social issues through the social connections it creates. A number of participants noted that live music often draws the focus of the crowd away from alcohol consumption and towards the music performance- the specific reason for attendance at the venue for 63% of patrons.”²¹

Venue operators state that the presence of live music and performance has the effect of reducing alcohol consumption. A recent City of Sydney survey shows an extremely high level of agreement that live music/performance is essential to Sydney’s identity (94%), in addition to high levels of agreement that they are an important contributor to the City’s economy (84%), that venues offer a more welcoming and safer environment (82%), and that the scene supports the development of world class acts (82%). Furthermore, around half of all respondents also agreed that live music/performances draw a crowd’s focus away from alcohol consumption (46%).²²

For the above reasons, it is my submission that the periodic licensing system be reviewed in detail, with the recommendation that it be amended to be more commensurate with the requirements of music venues. The music industry is only

²¹ Deloitte Access Economics, *The economic, social and cultural contribution of venue-based live music in Victoria* (2011) 39.

²² City of Sydney, *Live Music Matters Survey Report* (2014) 14.

one particular victim of the generalised licensing system. The licensing system should be applied in a more nuanced, well-thought out manner.

LIQUOR LAW REVIEW

ABRIDGED

NEW SOUTH WALES DEPARTMENT OF JUSTICE

April 2016

1. 1.30am lock out and 3am cessation of liquor sales

Alcohol-related violence

Introduction:

The review panel will of course be aware that on 15 January 2014, prior to the new government measures being introduced, the Bureau of Crime Statistics and Research (BOCSAR) issued a media release¹ clarifying that the incidents of assault in Kings Cross (and indeed NSW-wide) are either stable or on the decline over a 2-year and 5-year period. Significantly, it showed an average annual downturn in assaults in licensed premises in Kings Cross of around 30%. These figures indicate that incidents of violence in this area were appreciably declining before the implementation of recent measures. The table of results and corresponding graphs are displayed below.

	Postcode 2011		Kings Cross LAC		NSW	
Period	On licensed premises	Off licensed premises	On licensed premises	Off licensed premises	On licensed premises	Off licensed premises
2 yr trend and average annual percentage change	-20.2	Stable	-19.6	Stable	Stable	-3.7
5 yr trend and average annual percentage change	-5.5	Stable	Stable	Stable	-7.2	-3.9

¹ Bureau of Crime Statistics and Records, 'Trends in assault in Kings Cross' (Media release, 15 January 2014) <http://www.bocsar.nsw.gov.au/Pages/bocsar_media_releases/2014/mr_20140115_assault.aspx>.

Fig 1: Number of non domestic assault incidents recorded by the NSW Police Force as having occurred on and off licensed premises in postcode 2111

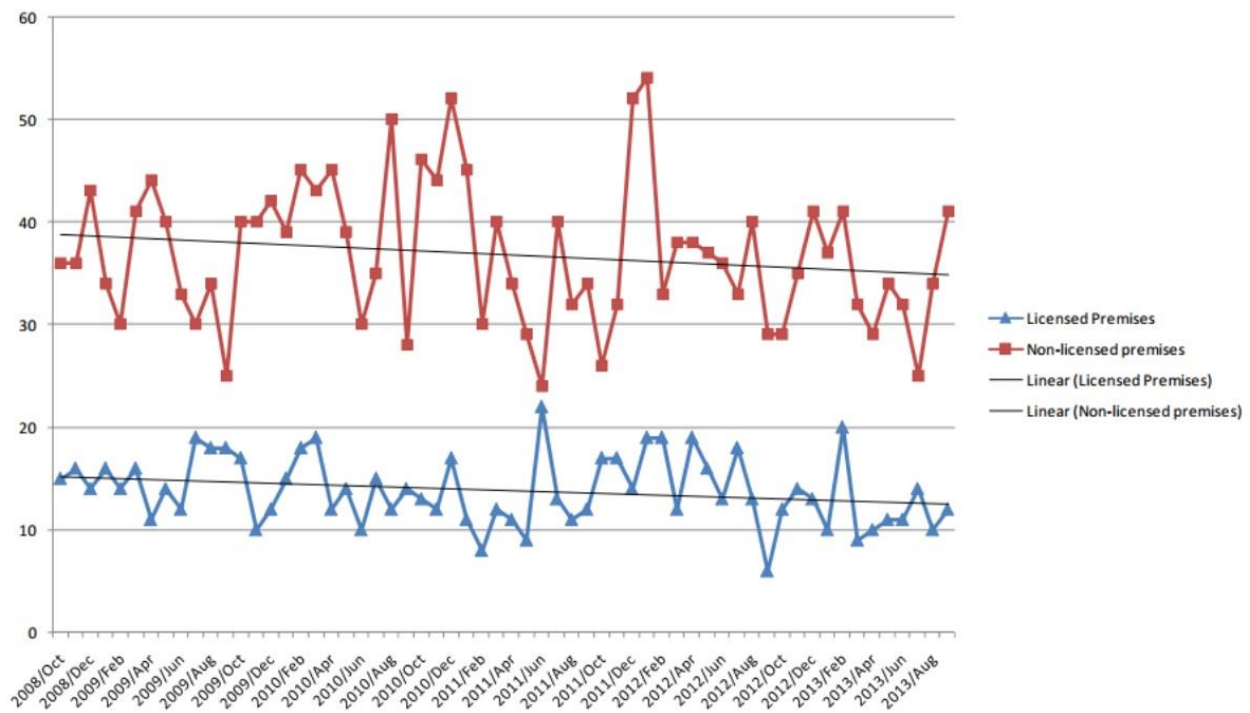
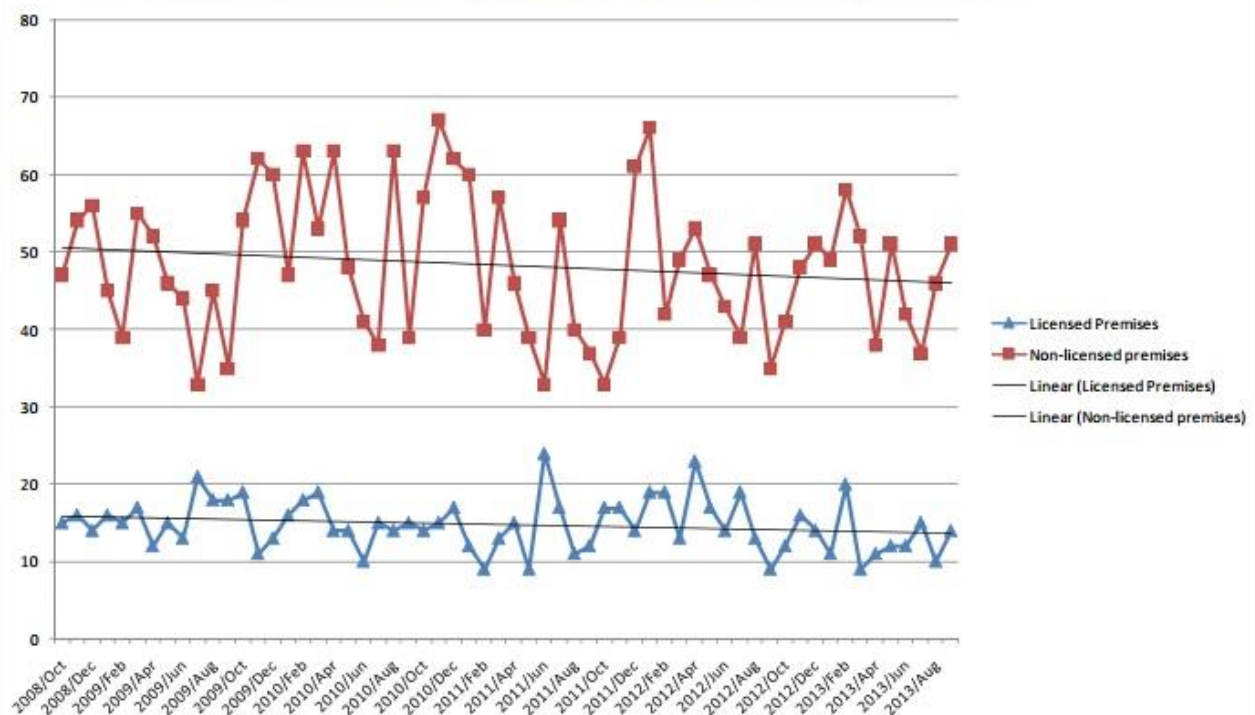


Fig. 2: Number of non domestic assault incidents recorded by the NSW Police Force as having occurred on and off licensed premises in Kings Cross LAC



I consider that the BOCSAR statistics are the best available information on incidents of violence in which alcohol is a contributing factor. Accordingly, it is my submission that incidents of alcohol-related violence in New South Wales have been in decline, in spite of media reports which tend to imply the contrary.

This is corroborated by data from NSW Health, which show that hospitalisation for interpersonal assault is declining and at an all-time low, both generally and for young males.²

Given that there is a long-term downward trend in the level of violence in the Sydney CBD, any further downward trend must be considered in that light.

Sydney CBD and Kings Cross:

The ideal starting point for this analysis is the statistics provided by the NSW Police Force regarding the number of non-domestic violence related assault incidents recorded as having occurred in Sydney City LAC, Kings Cross LAC, and Greater Sydney Statistical Area.³ The below charts and table use raw data released by BOCSAR.⁴

² HealthStats NSW, 'Interpersonal-violence – related hospitalisations' <http://www.healthstats.nsw.gov.au/indicator/inj_violhos>.

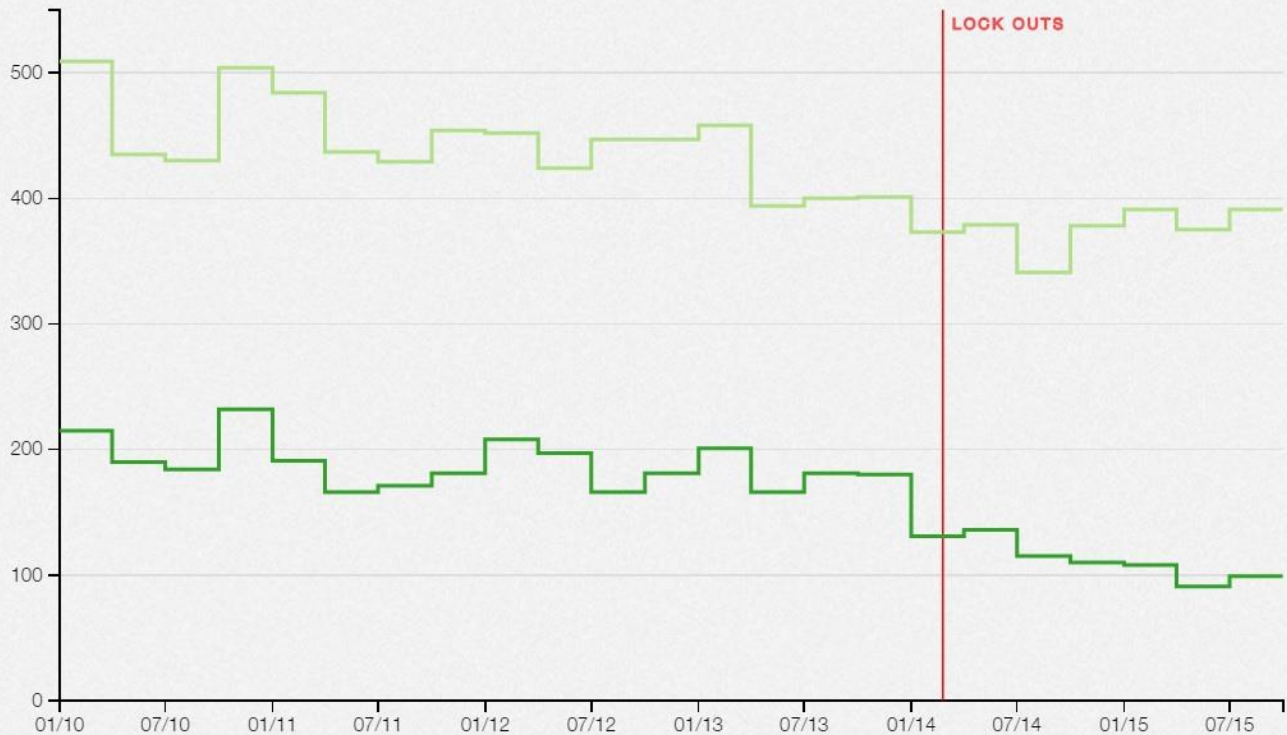
³ Greater Sydney Statistical Area is comprised: Central Coast, Baulkham Hills and Hawkesbury, Blacktown, City and Inner South, Eastern Suburbs, Inner South West, Inner West, North Sydney and Hornsby, Northern Beaches, Outer South West, Outer West and Blue Mountains, Parramatta, Ryde, South West and Sutherland.

⁴ Ken Macleod, 'Sydney non-domestic violence related assault incidents 2010-2015', *SBS News* (online), 16 April 2015 <<http://www.sbs.com.au/news/interactive/nsw-assaults>>.

TOTAL INCIDENTS

Number of non-domestic violence related assault incidents recorded by the NSW Police Force, calculated quarterly.

■ Sydney City LAC
 ■ Kings Cross LAC



	Sydney City	Kings Cross
Average incidents pre lockout per quarter (Jan 2010 - Dec 2013)	444	188
Average incidents post lockout per quarter (Apr 2014 - Oct 2015)	376	110
Average change between pre and post lockout incidents per quarter	-68	-78
Average change between pre and post lockout incidents per quarter (%)	-15.3%	-41.5%

The following observations can be made from the above graph:

- Since the introduction of the lock outs, the downward trend in frequency of assaults has slowed down in Sydney City.
- Since the introduction of lock out laws, the downward trend in frequency of assaults has sped up slightly in Kings Cross.

Midnight till 3am

■ Sydney City LAC
 ■ Kings Cross LAC



	Sydney City	Kings Cross
Average incidents pre lockout per quarter (Jan 2010 - Dec 2013)	133	56
Average incidents post lockout per quarter (Apr 2014 - Oct 2015)	101	28
Average change between pre and post lockout incidents per quarter	-32	-28
Average change between pre and post lockout incidents per quarter (%)	-24.1%	-50%

The following observations can be made from the above graph:

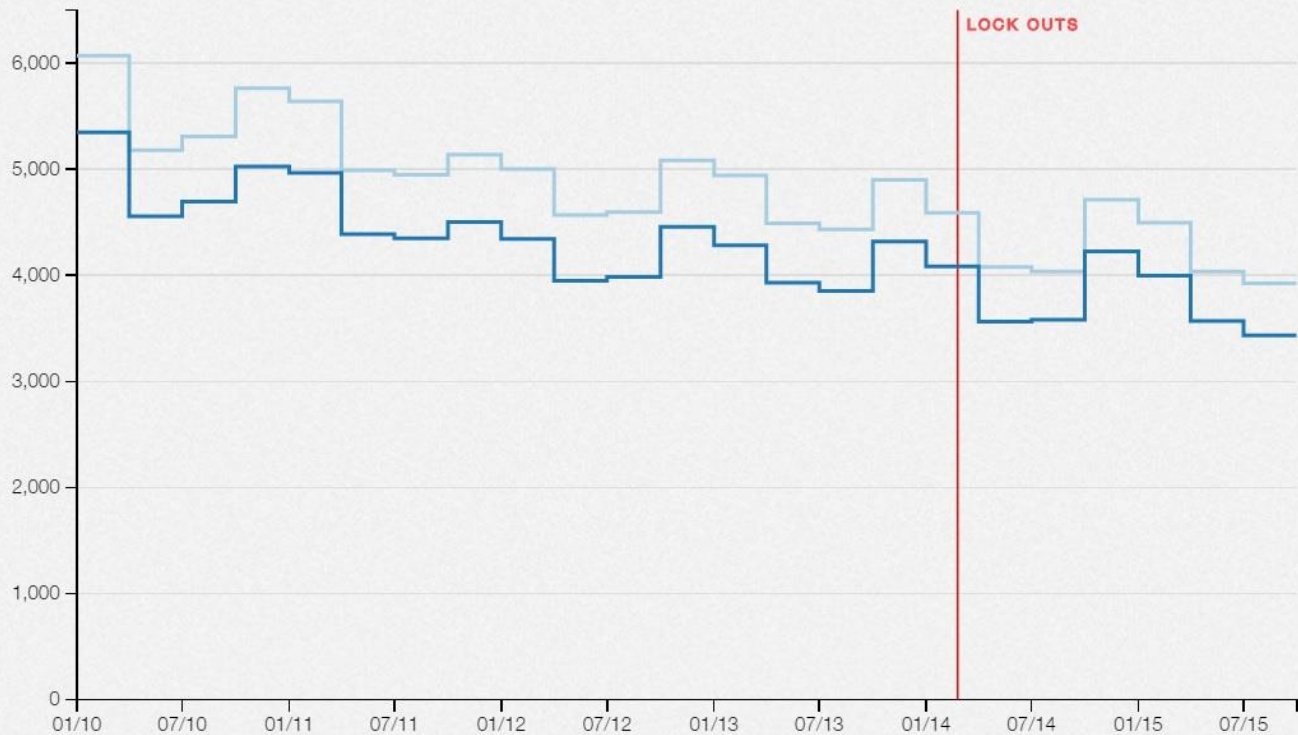
- Since the introduction of the lock outs, the downward trend in frequency of assaults has slowed down in Sydney City between midnight and 3am.
- Since the introduction of lock out laws, the downward trend in frequency of assaults has sped up slightly in Kings Cross between midnight and 3am.

Potential Displacement Areas and the Greater Sydney Statistical Area:

TOTAL INCIDENTS

Number of non-domestic violence related assault incidents recorded by the NSW Police Force, calculated quarterly.

Greater Sydney Greater Sydney excluding Kings Cross LAC and Sydney City LAC



	Greater Sydney	Greater Sydney (ex City/Cross)
Average incidents pre lockout per quarter (Jan 2010 - Dec 2013)	5065	4433
Average incidents post lockout per quarter (Apr 2014 - Oct 2015)	4214	3728
Average change between pre and post lockout incidents per quarter	-851	-705
Average change between pre and post lockout incidents per quarter (%)	-16.8%	-15.9%

From this graph it is quite evident that the downward trend which existed prior to the introduction of the lock out laws has more or less maintained its rate of decline.

Midnight till 3am

Greater Sydney Greater Sydney excluding Kings Cross LAC and Sydney City LAC



	Greater Sydney	Greater Sydney (ex City/Cross)
Average incidents pre lockout per quarter (Jan 2010 - Dec 2013)	795	607
Average incidents post lockout per quarter (Apr 2014 - Oct 2015)	556	415
Average change between pre and post lockout incidents per quarter	-239	-192
Average change between pre and post lockout incidents per quarter (%)	-30.1%	-31.6%

Again, from this graph it is quite evident that the downward trend which existed prior to the introduction of the lock out laws has more or less maintained its rate of decline.

Discussion:

The statistics from BOCSAR suggest that Sydney's lock out laws have not helped to significantly reduce the number of assaults.

It is established that incidents of assaults have been steadily falling since before the introduction of lock out laws. The graphs demonstrate the lock out laws have reduced the rate at which incidents of assault were falling in Sydney City LAC. They have not had such an effect in the Kings Cross LAC.

Interestingly, the data also demonstrates that there has been a greater drop in the number of assaults between midnight and 3am– the major target of lock out laws– in the Greater Sydney area than within the lock out zone.

- Assaults between midnight and 3am in Greater Sydney: Down **31.6%**
- Assaults between midnight and 3am in the Sydney City: Down **24.1%**

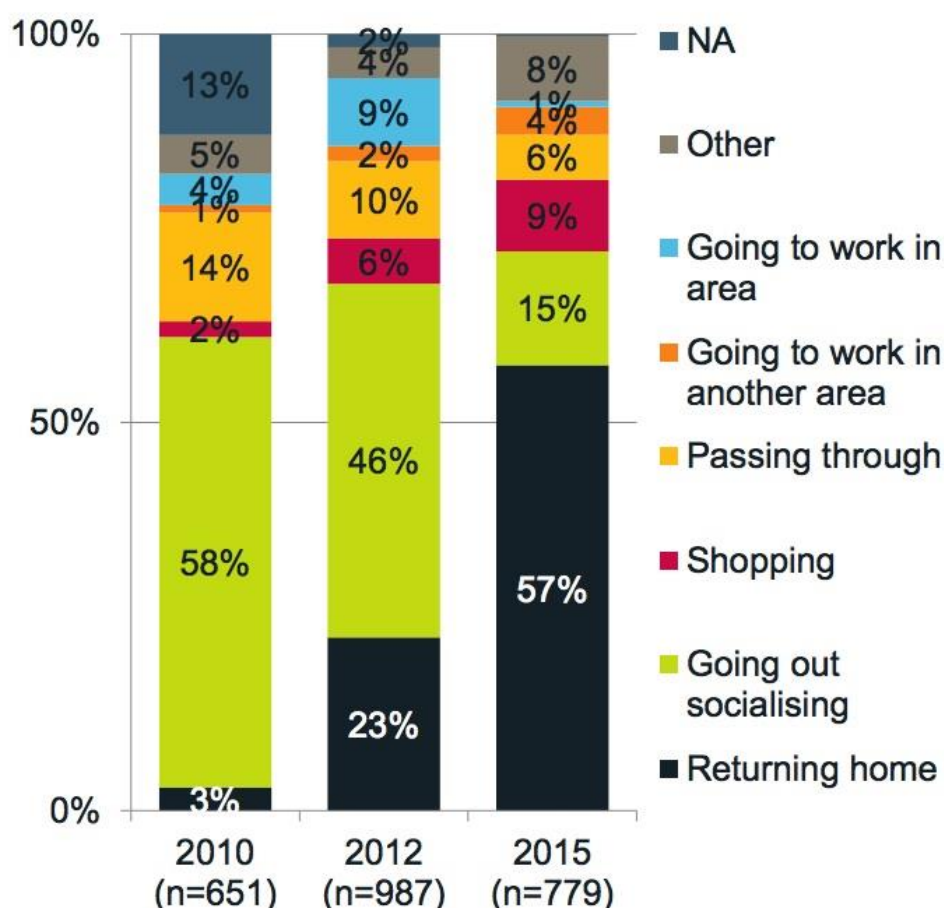
From this, it can be deduced that the 1:30am lock out and 3am cessation of liquor sales have not had the intended effect of significantly reducing alcohol-related assaults in the Sydney City area.

In respect of the Kings Cross area, the data shows a 41.5% drop in total incidents and a 50% drop between midnight and 3am. The corresponding graphs show an increase in the rate at which assaults were falling. However, as discussed earlier, any such increase must be considered in relation to the trend which was already in effect prior to the introduction of the lock out laws. As Director of BOCSAR, Don Weatherburn, puts it, the lock out laws accelerated this existing downward trend. The

findings of a BOCSAR report released last April analysing the first eight months of the data since lock out laws were introduced, which adjusted for the pre-existing decline, found that assaults in Kings Cross fell by 32% and in Sydney City by 26%.⁵

The numbers above represent the percentage drop in *total* assaults in the Kings Cross and Sydney City area. To obtain an accurate picture of the frequency of assaults, it is important that the numbers be considered in light of the decreased patronage since the introduction of the lock out laws.

Reason for visiting the NTE 2015, 2012, and 2010 comparison



⁵ Patricia Menendez, Don Weatherburn, Kypros Kypri and Jacqueline Fitzgerald, 'Lockout and last drinks: The impact of the January 2014 liquor licence reforms on assaults in NSW, Australia' (2015) 183 *Crime and Justice Bulletin*.

The chart above breaks down the results of surveys conducted by City of Sydney in 2010, 2012 and 2015 which asked patrons their reason for visiting Sydney late at night.⁶ In 2010, 58% of respondents said they were “going out socialising”, with a further 2% out “shopping”. Comparatively, in 2015 only 15% of patrons were “going out socialising” with another 9% out “shopping”. In other words, if we were to categorise these two answers into a group simply referred to as people “going out”, there has been a 60% drop in people “going out” in Sydney late at night.

As the survey was not conducted in 2014 around the time of the introduction of the lock out laws, the trend in foot traffic decrease was used to determine the likely portion of patrons “going out” in 2014. That number was 34%.

Given this 34% reduction in foot traffic from 2014 to 2015 (i.e. during the effective time of the lock out laws), we should expect a 34% decrease in the number of incidents in lock out areas simply to *break even* with the frequency of incidents which existed prior to the introduction of lock out laws. Taking this decrease in foot traffic into account, the 32% (Kings Cross) and 26% (Sydney City) drops in incidents would suggest the introduction of lock out laws have *increased* the rate of alcohol-related violence by 2% in Kings Cross and 8% in Sydney City. As such, it would be fair to conclude that the lock out laws have failed to reduce alcohol-related violence. Meanwhile, the number of incidents in the Greater Sydney area has been steadily falling as before 2014.

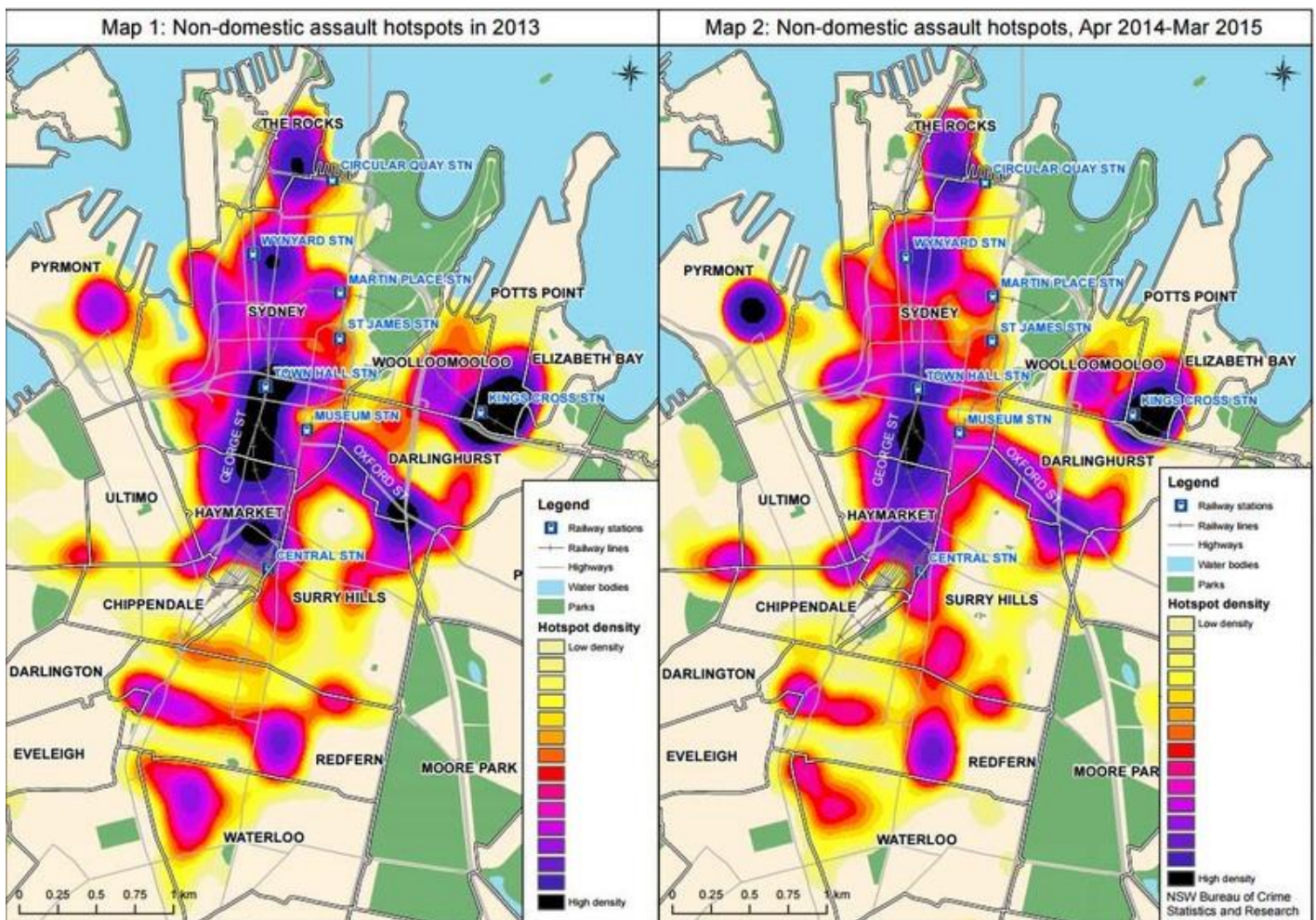
⁶ City of Sydney, *Late Night Management Areas Research Phase 4 Report* (2015), 48
<http://www.cityofsydney.nsw.gov.au/__data/assets/pdf_file/0011/250202/2015-541941-Report-Late-Night-Management-Areas-Research-Final.pdf>.

On a final note, it should be noted that despite Mike Baird's suggestion that violence in nearby areas has not increased, sources show that this is in fact the case. BOCSAR found that the Star casino recorded an average of 6.3 assaults per month in 2014, up from 3.5 in the corresponding period for 2013. This is roughly three times the number recorded for the central Sydney nightclub Ivy, which was named in December 2014 as NSW's most violent venue.⁷ Similarly, there has been an 18% increase in the number of alcohol-related attacks in Newtown since the introduction of the lock out laws, 375% increase in Petersham, and a 31% increase in Glebe.⁸ Reference to BOCSAR's assault hotspots map below demonstrates that:

- Kings Cross and surrounding suburbs still have instances of violent altercations, although slightly down;
- Redfern, Waterloo and Surry Hills have seen an increase in violence;
- Pyrmont has seen a very noticeable increase in violent assaults, most likely due to the Star's exclusion from the lockout laws.

⁷ Sean Nicholls, 'Star casino may be the most violent venue but exempt from restrictions', *The Sydney Morning Herald* (online), 21 April 2015 <<http://www.smh.com.au/nsw/star-casino-may-be-the-most-violent-venue-but-exempt-from-restrictions-20150420-1morb6.html>>.

⁸ Francesca Wallace and Michael Koziol, 'The new Kings Cross: lockout laws send revellers to Newtown', *The Sydney Morning Herald* (online), 21 June 2015 <<http://www.smh.com.au/nsw/newtown-gets-busy-as-kings-cross-empties-20150619-ghseco.html>>.



Any suggestion that violence has not simply relocated is dubious at best.

Comments made by Mike Baird:

On 9 February 2016 Mike Baird took to social media to provide his point-of-view on the effects of the lock out laws. Relevant portions are provided and then discussed below:

1. *“Alcohol related assaults have decreased by 42.2 per cent in the CBD since we introduced the “lock-out laws”. And they’re down by over 60 per cent in Kings Cross.”*

As demonstrated above, this statistic is thoroughly inaccurate. Either by miscalculation or in an effort to exaggerate the success of the lock out laws, Mike Baird has failed to take into account the pre-existing downward trend in alcohol-related assaults and the reduction in patronage since the lock out laws were introduced. Accordingly, Mike Baird's figure should be wholly ignored.

2. *"But... didn't we achieve this by shutting down the whole city and killing its nightlife? Well, one last statistic: the number of small bars in Sydney has more than doubled in the same time period."*

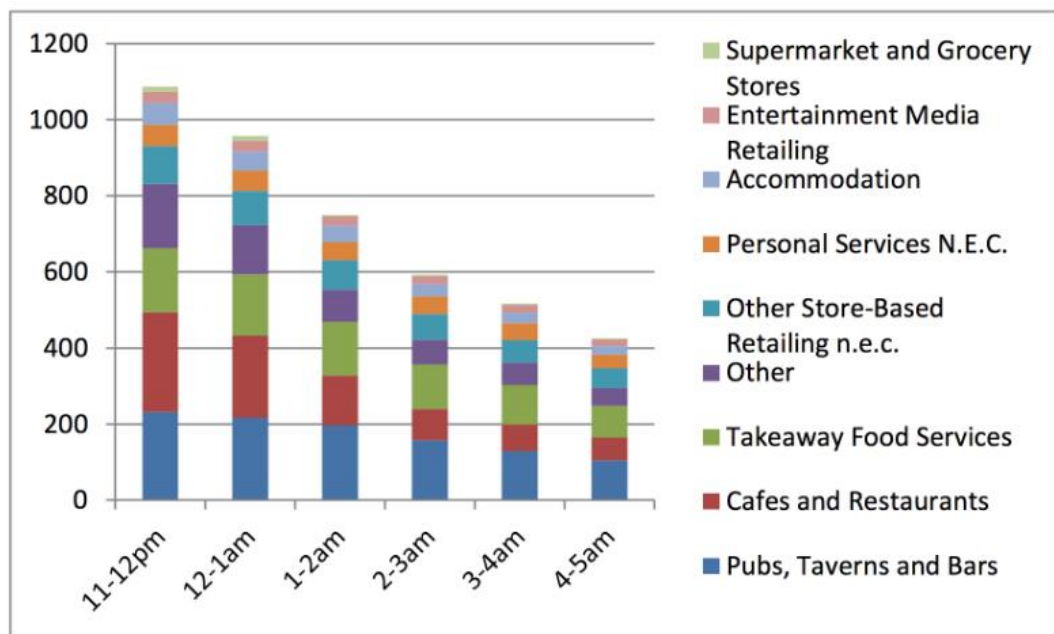
As Baird fails to give much clarity, one can only assume that the statistic is taken from a City of Sydney survey which assesses the number of businesses open during different times of the night in Sydney. This survey was undertaken in 2010,⁹ 2012¹⁰ and 2015.¹¹ All three are displayed below.

⁹ City of Sydney, *Late Night Management Areas Research Project* (2011), 41
<http://www.cityofsydney.nsw.gov.au/__data/assets/pdf_file/0017/131741/LateNightManagementAreaResearchReport.pdf>.

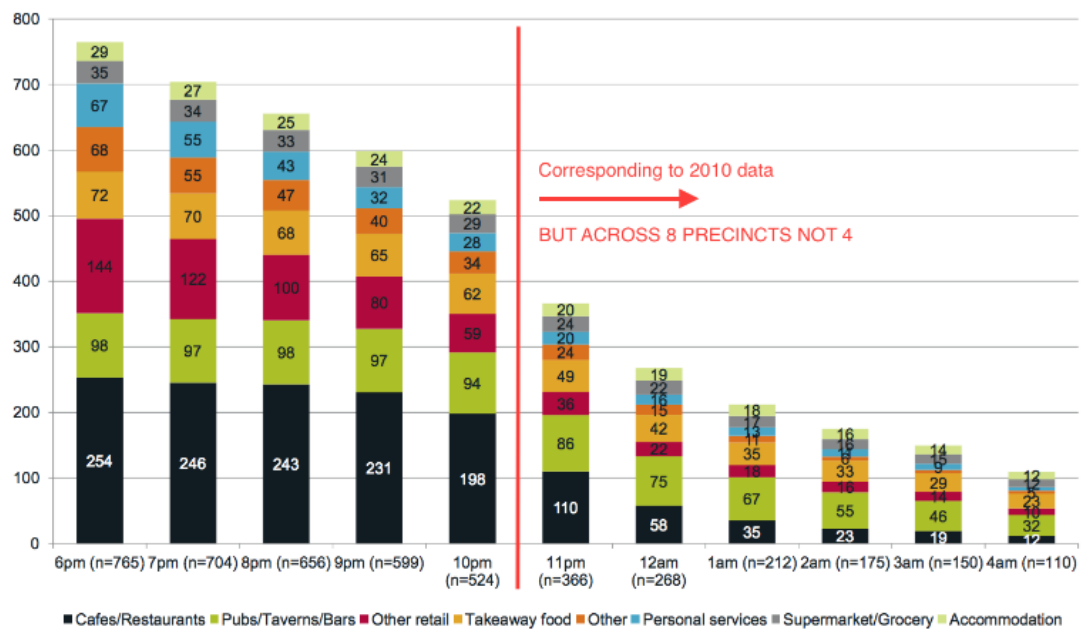
¹⁰ City of Sydney, *Late Night Management Areas Research - Phase 3 Report* (2013), 26
<http://www.cityofsydney.nsw.gov.au/__data/assets/pdf_file/0014/200129/Late-Night-Management-Areas-Research-Phase-3-report-December-2012.PDF>.

¹¹ City of Sydney, above n 6, 36.

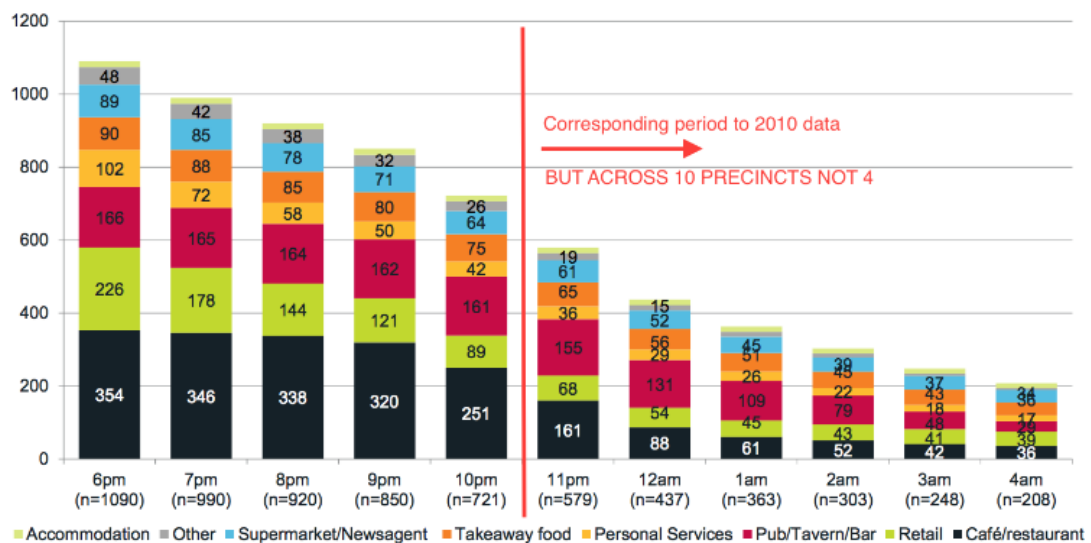
2010
Survey



2012
Survey



2015
Survey



Since the original survey undertaken in 2010, City of Sydney has altered the manner in which it presents the data collected from this survey.

Firstly, the survey taken in 2010 was run from 11pm – 5am. The subsequent surveys undertaken in 2012 and 2015 were both run 6pm – 5am. This change could have very well been done to boost the numbers of businesses open in an effort to give efficacy to regulatory measures imposed post 2010. The data in the 2012 and 2015 surveys which correspond to the 2010 survey are indicated in each graph as being to the right of the red line. The corresponding statistics are tabulated below.

	11pm	1am	4am
2010	~1075	~750	~415
2012	366	212	110
2015	579	363	208

When comparing the number of businesses open at the same time of the night, it is abundantly clear that the number of businesses open have significantly diminished between 2010 and 2012. The decrease in raw statistics are further exacerbated when we take into consideration that the 2012 survey examined a larger geographical area than the 2010 survey. The 2012 report measured the number of open businesses in 8 areas- George Street, Oxford Street and Kings Cross and five of the City's main streets: King Street, Crown Street, Glebe Point Road, Harris Street and Redfern Street. Comparatively, the 2010 survey only covered 4 precincts- Kings Cross, Oxford Street, the Rocks and the CBD South.

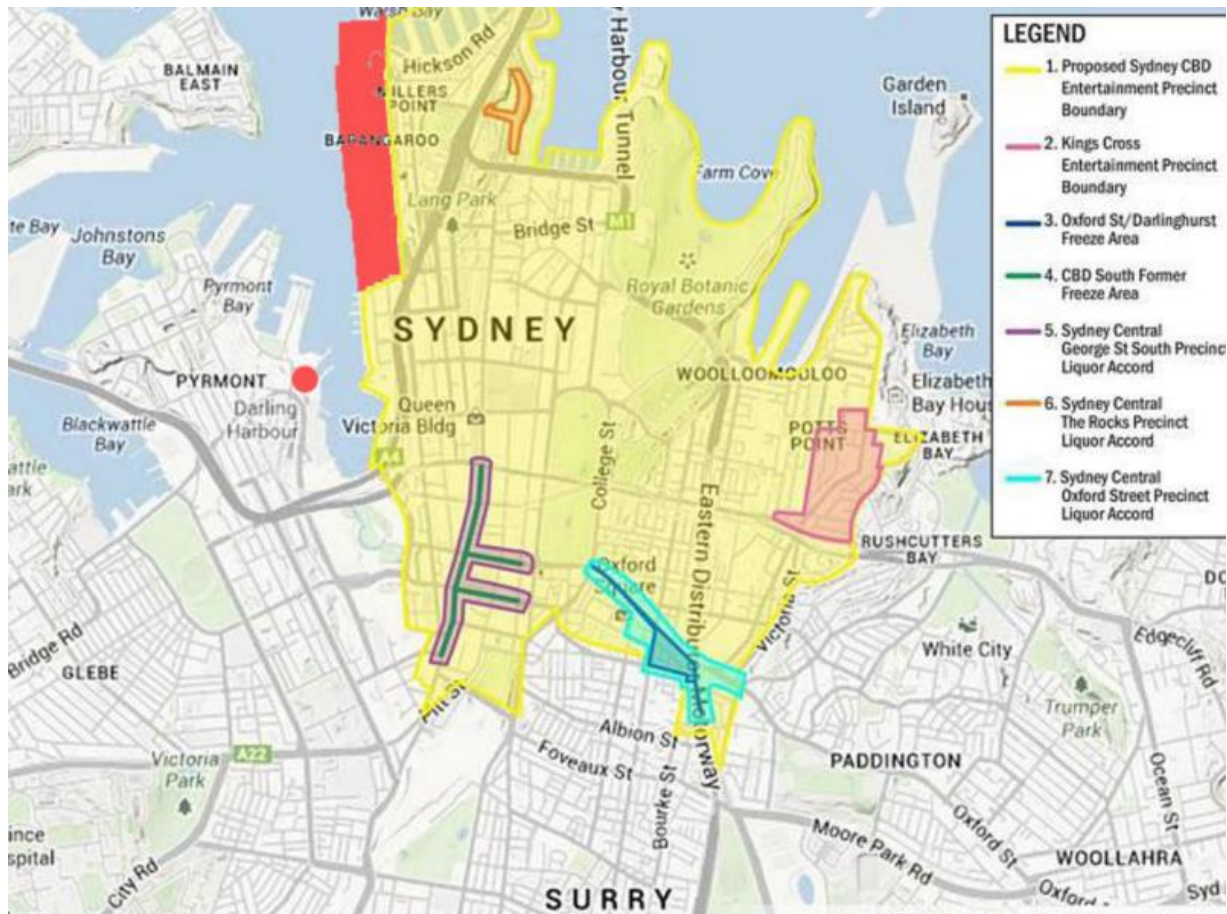
Following on, it would appear as if the number of small businesses have increased between 2012 and 2015, i.e. before and after the introduction of lock out laws. However, once again, the geographical area surveyed was expanded for the 2015 survey, now encompassing 10 precincts- five Sydney CBD Entertainment Precincts (Central CBD, North CBD, South CBD, Kings Cross and Oxford Street) and five City Suburban Precincts (Pyrmont, Newtown, Surry Hills, Redfern and Glebe). Without making any suggestions as to why this expansion was adopted, it has allowed Mike Baird to falsely suggest that small businesses have thrived since the introduction of lock out laws.

In conclusion, in no instance has “*the number of small bars in Sydney... more than doubled*”. Even with the misleading data provided by City of Sydney, the 2012 and 2015 surveys never demonstrate a doubling of the number of small business open at any given time in Sydney. Mike Baird’s assertion is categorically false.

Other Considerations:

There is one other major concern I feel must be raised before the review panel regarding alcohol-related violence. I refer of course to the exemption of both Barangaroo and Star casinos.

Undoubtedly the panel is familiar with the geographical scope of the lock out laws. As highlighted on the following map, the two casino sites are both conveniently left just outside the boundary of the lock out laws.



Both of these venues hold 24/7 licenses to serve alcohol despite the government's supposed intention to reduce alcohol-related violence. As stated in the discussion of alcohol-related violence above, the Star has the highest rate of incidents in NSW, even more than that of Ivy. Under the government's regulation scheme, trading restrictions are to be imposed on venues which record more than 19 alcohol-related assaults in a year. Despite recording 75 over the past year, the Star has been exempt from the violent venues scheme since its inception in 2008. It is also exempt from the "Three Strikes" scheme under which venues face loss of their liquor license for repeated breaches of licencing laws. The most recent annual report of the Independent Liquor and Gaming Authority (ILGA) revealed the Star was fined or censured 12 times during 2013-14 for license breaches. Twice it was fined for

permitting intoxication in the casino and once for permitting intoxication in its Marquee nightclub – each an offence that would usually incur a strike.¹²

The government's failure to impose lockout laws has undoubtedly contributed to the funnelling of party goers to the casino precincts. Given the well-known connection between gambling and suicide,¹³ gambling and depression,¹⁴ and gambling and domestic violence,¹⁵ in no way could this be considered to be in the public interest.

In light of the government's rhetoric regarding alcohol-related violence and its negative effect on the community, it is my strenuous submission that the efficacy of the lockout laws be considered in the context of the government's choice not to enforce similar restrictions on Barangaroo and Star casinos.

¹² Nicholls, above n 7.

¹³ 'Exposing the links between gambling and suicide', *SBS News* (online), 9 October 2013 <<http://www.sbs.com.au/news/article/2013/10/09/exposing-links-between-gambling-and-suicide>>.

¹⁴ Dan Harrison, 'Gambling linked to depression', *The Sydney Morning Herald* (online), 15 June 2008 <<http://www.smh.com.au/national/gambling-linked-to-depression-20080614-2qo2.html>>.

¹⁵ Tom Nightingale, 'Study unearths hidden link between domestic violence and gambling', *ABC News* (online), 5 September 2013 <<http://www.abc.net.au/news/2013-09-05/study-unearths-hidden-link-between-domestic/4938062>>.

Anti-social behaviour

According to data collected by City of Sydney, anti-social behaviour in Sydney has dropped 80% since 2012. However, the largest drop occurred before the lockdown laws came into effect, specifically between 2010 and 2012.¹⁶

Of the 1,465 incidents of anti-social behaviour incidents recorded in the 2015 survey, 52% were “non-serious: making noise, horsing around, singing or playing”; 38% of incidents were less “less serious: drunken behaviour like vomiting, staggering, and public urination”.¹⁷

Interestingly, the peak anti-social behaviour incident occurred at 3am, which coincided with last drinks orders and closing times for many venues. In other words, the imposition of last drinks contributed to the mass exodus of patrons from their respective venues, likely increasing the likelihood of anti-social behaviour occurring.¹⁸ Furthermore, the survey found that there was no observable relationship between the concentration of licensed premises and the incidence of anti-social behaviour.¹⁹

Given the triviality of most anti-social behaviour transpiring in Sydney and the fact that anti-social behaviour was heavily in decline between 2010 and 2012 in

¹⁶ Nick Jarvis, ‘New research confirms that Sydney’s streets are dead at night’, *inthemix* (online), 3 February 2016 <<http://inthemix.junkee.com/new-research-confirms-that-sydneys-streets-are-dead-at-night/137685>>.

¹⁷ City of Sydney, above n 6, 4.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

comparison to 2012 and 2015, I submit that the issue of anti-social behaviour weigh against the choice to retain lock out laws. Much of the conduct described can be much more simply and cost-effectively addressed through non-restrictive measures.