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Liquor Law Review
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By email: liquorlawreview@justice.nsw.gov.au

Dear Liquor Law Review

SUBMISSION TO THE LIQUOR LAW REVIEW

1. I am a young student at the University of New South Wales and I welcome the opportunity to provide a submission to the Liquor Law Review into whether the policy objectives of the *Liquor Amendment Act 2014* (NSW) remain valid and their terms appropriate for securing those objectives.
2. In respect of the Review's term of reference sub-paragraph 1(a), this submission argues that, although the legislative aim of the act is proper and legitimate, the means that have been chosen to achieve this aim are not properly tailored to addressing the underlying issues and have an unjustifiably disproportionate effect on stakeholders such as businesses and the social life of the local community.
3. In other words, the government has a duty to control violence in the city, however the 1.30am lock-out and the 3.00am cessation of liquor sales as means of pursuing this aim have had grave consequences on businesses and the local community.
4. **Recommendation:** The Review should consider lifting these laws in order to implement more targeted measures which preserve and foster the vibrancy of our city while ensuring that patrons remain safe. These two goals do not need to be mutually exclusive.
5. *The objective of Act is legitimate.*
 - 5.1. The aim to reduce alcohol-fuelled violence and anti-social behaviour to improve safety around entertainment precincts, particularly late at night are legitimate objectives. Individuals have a right to feel safe when they are enjoying the city's nightlife, and governments should secure this.
 - 5.2. However, I do not believe it would be a legitimate aim of the government to impose moral judgments on to the conduct of individuals – merely to ensure that they are kept safe, and that they do not harm other individuals during these activities.
6. *The legislative means of achieving its aim are too narrow.*
 - 6.1. The legislative means of achieving an objective is said to be 'narrow' when the means do not adequately target the issues necessary to achieve that objective.
 - 6.2. In this case, the defined area of the lockout laws do not adequately cover all areas with high 'alcohol fuelled violence' within the Sydney CBD. The Star Casino and Barangaroo

entertainment precincts are not covered by the lockout laws, despite the fact there are comparable levels of assaults which occur within approximate distance of those areas.¹

6.3. The government has failed to justify a credible reason to exempt the entertainment areas of the Star Casino and Barangaroo from the definition of Sydney ‘CBD subject premises’.²

6.4. This seriously discredits the government’s justification that these restrictions are needed to ‘address the drug- and alcohol-fuelled attacks on our streets and the increase in violence’.³

7. *The legislative means of achieving its aim are over-broad.*

7.1. A legislative means is said to be over-broad when its effects go beyond the original legislative intention and impinges on other rights or freedoms.

7.2. In this case, although the rates of violence and assault have decreased within the Sydney CBD entertainment precinct since the introduction of the laws, this has impacted adversely on other aspects of the precinct which were not originally contemplated in the legislation.

7.3. The laws have effectively imposed a de facto curfew onto the city as indicated by the significant drop in pedestrian activity in ‘lock-out’ zone around 1.00am.⁴ The aim of the laws is to reduce alcohol-fuelled violence not effectively shut down the entertainment precincts and quash the vibrant night-time economy and culture of Sydney.

7.4. This effect conflicts with the objectives of the *Liquor Act 2007* (NSW) which requires that the ‘sales, supply and consumption of alcohol contributes to, and does not detract from the amenity of community life.’⁵

7.5. The effects of the Act are over-broad and do not contribute to the amenity of community life, but detract from it by effectively dismantling it.

8. In considering whether such means are heavy-handed, it is useful to consider alternative means of reducing alcohol fuelled violence. Such means may include:

- a staggered closing schedule of licensed premises, to avoid spikes in pedestrian activity when premises close simultaneously;
- increased running time of public transport in order to quickly move people out of an area;
- closing vehicle access to areas of high density pedestrian activity during peak times at night;
- increasing the number of ‘sobering-up stations’ to allow people to safely recover while under medical supervision and;
- increasing the police presence to deter assaults.

9. The notion of drug- and alcohol-fuelled violence taps into a deeper primal fear within us, which may be used to justify the imposition of harsh and ill-considered restrictions to individual freedoms. This appeal to moral panic and a tough stance on crime should be avoided as foundations for introducing laws.

¹ Bureau of Crime Statistics and Research, *Mapping the Impact of the Sydney Lockout Laws on Assault* (20 August 2015) NSW Government <http://www.bocsar.nsw.gov.au/Pages/bocsar_news/Mapping-the-impact-of-the-Sydney-lockout-laws-on-assault.aspx>.

² Daisy Dumas, ‘The Star Doesn’t Need Sydney’s Lockout Laws, Says Casino Boss’, *The Sydney Morning Herald* (online), 16 February 2016; Sean Nicholls, ‘Star Casino May Be the Most Violent Venue but Exempt from Restrictions’ *Sydney Morning Herald* (online), 21 April 2015 .

³ New South Wales, *Parliamentary Debates*, Legislative Assembly, 30 January 2014, 26621 (Barry O’Farrell).

⁴ City of Sydney, ‘Late Night Management Areas Research’ (Report, Phase 4, September 2015) 22. See also, Michael Kozioll ‘Explainer: The Sydney Lockout Laws Debate’, *The Sydney Morning Herald* (online), 12 February 2016; Lauren McMahan ‘Why You Can’t Go to the Bottle Shop after 10 pm’, *News.com.au* (online), 6 February 2016.

⁵ *Liquor Act 2007* (NSW) s 3(2)(c).

10. To properly consider the effectiveness of these laws, the impact of the laws on businesses in the social life of the city must be balanced against the right of individuals to safety. Of course, individual safety is a paramount consideration, however it would be impossible to create a completely risk-free environment. Such a serious interference on the rights of individuals and businesses can only be justified in the most extreme circumstances, where the threat of harm is clear and immediate; a threshold which has not been met here.

Thank you for taking the time to consider my submission.

Kind regards

Michael Quach