

Hon. Justice IDF Callinan AC, QC  
Liquor Law Review  
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1 April 2016

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## Submission to Liquor Law Review

### 1.0 Introduction

Surry Hills Liquor Accord is the largest Liquor Accord in NSW, representing and servicing some 365 licensed premises, many of which have been affected by the February 2014 interventions introduced by the package of reforms in the *Liquor Amendment Act 2014*.

Our Accord area, which includes internationally renowned Oxford Street, is an Entertainment Precinct prescribed by *Schedule 3 of the Liquor Act 2007* and traditionally a major late trading precinct defined by the City of Sydney's Late Night Trading Development Control Plan. Licensed premises in our area comprise a diverse mix of venues, ranging from the small bars and licensed cafés, to restaurants, pubs, nightclubs and accommodation hotels, all catering to locals and large numbers of visitors and particularly the gay community.

It has been encouraging that senior officers of NSW Police, Liquor & Gaming and Sydney City Council have each noted that anti-social behaviour and infringements against licensed premises in our area are at an all-time historic low and, for the most part, non-existent.

This excellent record has been achieved through the Accord Executive engendering a spirit of co-operation and collaboration between licensed venues management and all enforcement agencies' personnel and by the Accord devising and promoting a Venues' Code of Practice and an additional Patrons' Code of Conduct promoting RESPECT, which was identified as a disappearing attribute amongst many patrons (the Codes are attached at pages 8 & 9).

In the light of that background of co-operation with agencies and full compliance, it was a great disappointment to our members when the 2014 interventions were introduced into our area, although, at the time, it was generally recognised that not to include our entertainment area in the Sydney CBD precinct scheme, may well have seen the problems then being experienced in other nearby areas a spill-over into our area.

It was also the view of many of our members at the time, that Premier O'Farrell had no alternative than to respond to the avalanche of community disquiet and unprecedented media pressure about incidents which had occurred in Kings Cross by then introducing a raft of measures to defuse a politically untenable situation. However, the need for such wide ranging restrictions and having them applied across-the-board as a response to single incidents and only a few recalcitrant operators, was not and cannot be justified.

It remains apparent that our hospitality industry became the scapegoat with alcohol being blamed for all the ills of the city. That is ill-informed. Violence and anti-social behaviour are now endemic and inextricably linked to identifiable cultural changes which have swept society — the propensity for individuals to believe it appropriate to use aggressiveness and violence to assert domination; the increasing lack of respect for any regulation of personal behaviour; and the disdain for authority.

## **2.0 Our Submission**

In this submission we address the major aspects of the 2014 intervention measures and whether they remain valid and appropriate for securing their stated objectives in our area. As to any financial impacts experienced by industry, the NSW Treasury's Centre for Program Evaluation has been provided with data by many venues, and we ask the Review to rely on the assessment of that evaluation in regard to the range of financial impacts.

In our area, societal and technological change had already begun to alter the landscape in various ways, even prior to the 2014 trading restrictions. This transformation was a combination of: wider community acceptance of gay persons where, for many, the comfort and safety of a gay ghetto was less needed (and less appreciated by younger gays who had not experienced being ostracised); appreciably cheaper take-away liquor; substitute entertainment offerings available via faster and cheaper downloads — both which encourage unregulated socialisation in private settings; the advent and enormous uptake of 'Dating Apps' where people can more quickly and far more economically 'meet a friend' on-line rather than go out trawling the bars. Then, when the trading restrictions imposed in 2014 were added to that evolutionary mix, they were and continue to be seen as another 'nail in the coffin' for Sydney's Oxford Street.

Attendances at licensed venues over the past 2 years have also been affected by the advent of the weekly clandestine pop-up 'warehouse trance parties' each catering for 200-300 people who are linked through a closed network, and who relish the freedom and excitement of like-minded folk gathering in totally unregulated and unpoliced settings, usually in the inner-western suburbs.

## **2.1 1.30am Lock Out**

It is noteworthy that, in the eyes of patrons, the perception is that the 1.30am lock-out signalled the end of a night of socialising, especially for younger patrons, who make up the bulk of the clientele in this area. Some 2 years later, this situation continues as is revealed by the the City of Sydney Council Late Night Management Areas Research which demonstrates that people are leaving the area from 1am, rather than staying in venues until closing time.

Enquiries by our member licensees indicate that:

(a) young people are still not willing to accept that it is socially acceptable to venture to entertainment precincts much before 11.30pm. This is as much a cultural thing as it is a reflection of the changes in society, where people are now working much later; then going to the gym; then freshening-up at home; then having dinner and then preparing for a night out; and

(b) in today's 'age of entitlement' people do not like the restriction of being locked-in and not being allowed to decide, when one venue's offering doesn't suit their purpose, to move to another licensed premise.

These 'Under 40's' have not responded to the venues' concerted attempts, through targeted advertising and staging of promotions and performances to attract patrons earlier in the evenings and thus, the hospitality industry has not only experienced the savage income drop brought about by 3am cessation of alcohol service, and a reduction of 3 or 4 hours trading each night, but has suffered an additional 1½ hours of reduced trading activity because of the perception that the lock-out signals the end of a good night out and it's time to go home (or to a private party).

Proponents of retaining the Lock-Out will likely claim that crime and anti-social behaviour has been reduced since their introduction. Our opposing view is that official statistics recognise that the reduction in alcohol-related incidents occurred long before the introduction of lock-outs and that the lock-outs should be abolished.

Because the Government's aim must be to ensure that anti-social behaviour does not increase, and the safety and security of all in the community is maintained, it is our members strong belief that this will be achieved by Sydney replicating the practical approach adopted in other international cities and approach the peak period of each Friday and Saturday night like a major event and have police actually on the beat (on the streets) to defuse any aggression and unruly behaviour before it actually occurs, rather than responding after the incident.

The Sydney CBD Plan of Management's intention was that high visibility policing within and

on the fringes of the precinct would continue but, in practice, this has not occurred, other than during occasional special policing operations. The need for constant high visibility policing becomes even more obvious when considered in conjunction with the culture of aggression which now pervades our society.

*The following paragraph is not specific to Surry Hills-Darlinghurst, or even peculiar to Sydney, but included as our observation of wider and more complex social issues which the Review must consider:*

It is evident that many of the younger generation, who have disregard for authority, see raucous behaviour as an acceptable part of a normal night on the town and, because of the lack of police on the streets, on most occasions this behaviour has gone unchecked, allowing them the freedom to run amok. We also believe that the increasing use of steroids and hormone supplements and the aggressive symptoms of methamphetamine use — restlessness, agitation, aggressiveness, paranoia, psychosis, anxiety and panic attacks — as well as some of the ethnic tensions now experienced throughout major cities of the world, all dictate the need for police to be on the street to curb society's resultant aggressive behaviour, although it appears the enforcement and health agencies have not been prepared to recognise these trends or accept that illicit drug use has become the norm.

Of course, the counter-argument to more visible policing will be that an increased policing presence will require substantially increased funding. Our information is that the number of rostered police is sufficient. However, operational uniformed police need to be deployed to the streets in groups of 2 officers, visibly displaying authority and 'keeping the peace', as is so evident and effective in other major cities.

Should additional funds be required to implement this simple and practical proposition, then our members are of the view that proportion of the risk-based liquor licence fees (if they are to remain, even in a reduced form) should be ear-marked for just this purpose, as could the funds received from the issue of infringements for unruly behaviour.

And, should additional staffing resources be required, there would be merit in Government undertaking a close examination and then the adoption of the successful Supplementary Voluntary Policing structure, as occurs in the City of London's Metropolitan Police where Special Constables, with the 'Same Uniform / Same Powers', are appointed to work alongside and bolster the number of regular police officers.

## **2.2 3am Cessation of Service**

The threshold position of our members is that a 'carrot and stick' approach should be adopted as an alternative to the blanket 3am cease service requirement and that venues in our entertainment precinct be permitted to revert to pre-2014 approved trading hours (as per

individual liquor licence conditions) but that, if an infringement for intoxication or an on-premise assault is proven, as a penalty the venue reverts to both a 1.30am lock-out and 3am cessation of service.

Removing the 3am cessation of service would immediately eliminate all the present difficulties related to the wholesale displacement of patrons at a common hour and the associated struggles related to the few public transport options available at 3am.

### **2.3 10pm Take-Away Sales Restriction**

The 10pm restriction on take-away liquor sales does not recognise or sit at all well with the noticeable trend towards dining much later at night in Sydney, as has also occurred in most other global cities.

While recognising that intention of the 10pm restriction was to stop people from consuming alcohol on the streets (and in other public places) and an attempt to reduce pre-fuelling, those objectives can be realised in other ways. For example, if bottleshop outlets were to revert to pre-2014 approved trading hours, but permitted to sell only products associated with dining, e.g., wine and beer and only in quantity limited by Regulation, as already applies on-premise under the Sydney CBD Plan of Management (POM), then that concession would not cater to those intent on drinking to excess and community needs and expectations would be better met.

Sales at packaged liquor premises should also be refused to those seen drinking or with open alcohol on approach, to replicate the on-premise requirements under the POM.

### **2.4 Exemption from lock out and/or cease alcohol sales measures**

Although the limiting of exemption approvals has to date been based on the desire to contain anti-social behaviour, and other alcohol-related harm in the precinct, we believe it is a somewhat narrow and an erroneous conclusion to accept that unwanted behaviour and aggression in the community is only attributable to alcohol (as has been recognised in the Sydney CBD Plan of Management response document).

Our members suggest that should the Government determine that any of the current restrictions will remain, there should be opportunity to:

(a) apply for (rather than for an entire week of trading) and be granted exemptions on only weeknights, when venues cater for local needs, and do not experience an influx of visitors from outside our area and

(b) that the Regulations be amended to specifically provide for exemptions to be granted for other than primarily gaming operations, as appears to be the current policy interpretation.

## **2.5 Sydney CBD Plan of Management (POM) Conditions**

In general, our members believe that, other than the matters raised above, the conditions imposed in the POM are useful and have generally been accepted and actually complement and sit-well with the Surry Hills Liquor Accord's Venues' Code of Practice. That said, we make the following observations:

### **(i) 'Shots'**

The existing narrow interpretation of what constitutes a 'shot' has and continues to cause angst and consternation with discerning patrons, namely older and respectable folk and overseas visitors whose preference is to quietly quaff a single shot of a spirit or liqueur without a 'bruising mixer' after midnight.

Our suggestion is that a level of discretion should be allowed to venue serving staff to determine that responsible patrons do not present a potential danger, purely because of their choice of drink, and that a minor relaxation of this provision be agreed and implemented.

### **(ii) Party Vessels and Omnibuses**

It is our view that the current restrictions on party boats dropping-off and/or picking up passengers should be extended to 'Party Buses'.

## **2.6 Related Matters**

### **(i) Long-Term Banning Orders & Infringement Penalty Notices**

It is encouraging to our members that local Police are supportive of and appear to be making more use of long-term banning orders and the issue of infringement penalty notices, as was intended by the POM. We believe that if the use of these deterrents continues — and was more widely utilised throughout all City precincts — it will send a strong message that troublemakers and raucous behaviour are not welcome.

### **(ii) Sobering Up Centre**

Although it is beyond our ability to obtain statistics on the utilisation of the Sydney CBD Sobering Up Centre, it would be helpful for the Review to examine both the usage and, assuming that it is under-utilised as would appear, the reasons that troublemakers (of any type)

are not transported there. We have heard that those intent on causing disruption and mayhem are less concerned now they know that the Centre is not popular with Police and that, more often than not, they are unlikely to receive a hefty on-the spot fine for being drunk or disorderly.

**(iii) ID scanners**

Although there appears little doubt that the ID Scanning in Kings Cross has assisted in reminding patrons they can be readily identified should they wish to misbehave or act outside the law — and our members have taken those and the policing benefits into account — it is our view that, because of our area’s constant and continuing historically low crime statistics and minimal minor infringements against licensed venues, the same measures should not be extended to our area, unless future experience ever proves they are warranted.

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This is an Oxford Street and environs-centric submission intended to add to the submission to be lodged by the Coalition of City-based Liquor Accords and therefore, significant issues raised in that joint submission including recommendations concerning the periodic liquor licence fee system and risk-based loadings, have not been repeated here.

[ends]

Note: On the basis that this submission is likely to be publicly displayed, contact details have purposely not been provided herein but are readily available to the Review from officers at L&G NSW.

# Venues' Code of Practice — Surry Hills Liquor Accord

## 'Respect & Responsibility'

**MINIMISE HARM** associated with misuse and abuse of liquor (including harm arising from anti-social behaviour)

### Responsible service of alcohol

- Not serve alcohol to, or allow entry by persons who are intoxicated
- Not sell or supply liquor to a person under the age of 18 years
- Prohibit activities that encourage excessive drinking
- Not promote or sell alcoholic beverages designed to induce rapid intoxication
- Make available water, non-alcoholic or low alcohol beverages and food at all times

### Safety and security

- Actively monitor the behaviour and state of patrons to detect early signs of intoxication or anti-social behaviour
- Assign trained staff to actively monitor patrons – designate an RSA attendant at all peak trading times
- Maintain a level of security relevant to the premises (in accordance with liquor licence, or development consent)
- Establish good communications with Police and maintain accurate records when a safety incident occurs
- Provide licensed security staff on each entrance to the venue after midnight if requested by Police
- Promote safe transport options

**ENGAGE IN RESPONSIBLE ATTITUDES AND PRACTICES** with the promotion, sale, supply, service of liquor

### Discourage activities that encourage excessive consumption and intoxication

- Adhere to guidelines issued by OLG and the Secretary, NSW Dept of Trade & Investment
- Ban the advertising or promotion of activities that encourage rapid consumption or intoxication
- Ban any activities that encourage drinking excessively

- Do not serve doubles (spirits) or RTDs above 5% APV, after 12 midnight (excludes cocktails as permitted by the Plan of Management applicable to premises in the Sydney CBD Entertainment Precinct)
- Have smaller serves of drinks (e.g. half nips, middies, etc) available at lower prices
- Allow 'shots' (and similar) to only be consumed at the bar and only serve them to the intended consumers
- Ban 'drink cards' that provide either multiple free drinks and extreme discounts or discounts of limited duration, and similar promotions
- Offer low alcohol and non alcoholic drinks at lower prices

**AMENITY OF COMMUNITY LIFE - Ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life**

### Commit to being good neighbours

- Respect the neighbourhood by monitoring the activities of the premises and the behaviour of patrons in the immediate vicinity
- Encourage patrons to respect the quiet and good order of the neighbourhood when leaving the premises
- Take steps to address community complaints as soon as reasonably possible
- Ensure staff, including security staff, take reasonable steps to prevent smokers obstructing public pathways
- Ensure that any footway areas are not used as 'stand and consume' areas

### Premises and patron security

- Ensure entrances and exits are well lit and that immediate surrounds are safe and allow good visibility
- Maintain CCTV surveillance and monitoring systems, as required, which provide imaging which readily identifies incidents and offenders and which is easily downloaded if required by Police
- Display signage to indicate areas under CCTV surveillance

- Ensure staff, including security staff, wear distinctive clothing so they are clearly identifiable
- Ensure security staff wear their security licence
- Regularly review venue security systems and procedures to ensure a safe operating environment
- Post a current list at key telephones of emergency phone numbers such as Triple-Zero, Hospital, local Police station, council CCTV (where applicable)
- Train all staff in emergency/help procedures, and in use of the Incident Register

### Communication with Police

- Co-operate with Police at all times
- Appoint a manager with overall control and responsibility for the premises in the absence of the licensee
- Record all relevant incidents in an Incident Register - noting the time, date and the nature of the incident in and around the premises, and the response by staff and management
- Ensure the Incident Register is readily accessible to Police and licensing authorities
- Record business inspections by Police (including routine visits and follow-up on specific incidents) in the Incident Register
- Notify Police of all crimes. Isolate and preserve crime scene until Police arrive. Do not wash down crime scene until advised by Police
- Notify Surry Hills Police 7 days in advance of any special events likely to significantly increase patronage and the number or type of people in the venue or the area

**COMPLY WITH THE LAW, policies, procedures and guidelines relating to the operation of licensed premises**

- Ensure all relevant staff, including security staff, are conversant with legislative requirements, development consents and other licence conditions relating to the premises



# SURRY HILLS LIQUOR ACCORD

When in Darlinghurst-Surry Hills,

"I will" ...

- R**espect all who live, work and visit this entertainment precinct
- E**nsure my actions have no negative impact on other people
- S**ay 'No' to homophobia and anti-social behaviour
- P**ace myself - My consumption is my responsibility
- E**njoy the facilities of licensed premises and do it within the law
- C**are that our entertainment precinct keeps its good name
- T**ake directions from management and staff of licensed premises

The Surry Hills Liquor Accord Patrons' Code of Conduct  
affirming the need for patrons of licensed premises to take personal responsibility for their decisions,  
act within the bounds of the law and show respect for others.

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