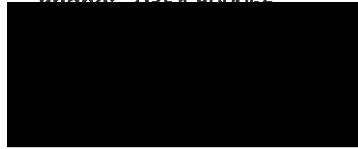




Border Inn Hotel  
19 – 21 Meninya Street  
Moama NSW 2731  
Phone: 0254 800066



NSW Office of Liquor, Gaming and Racing

**Re: Three Strikes Disciplinary Scheme Review 2016**

Dear Sir/Madam,

I am writing in response to the submission request regarding the Three Strikes Disciplinary Scheme (TSDS) and would like to raise a number of points for your consideration.

In regards to whether I believe TSDS is an appropriate policy response to address specific Liquor Act offences, I would like to make clear my opposition to this statement.

On January 6<sup>th</sup> 2015, a staff member at the Border Inn Hotel, Moama sold a cask of wine to a minor and I was subsequently issued with a penalty notice for the prescribed offence under the Scheme.

This incident occurred despite the hotel management team's best efforts to prevent such actions. All employees are made aware of the hotel's policy in regards to RSA obligations upon induction, we instructed our bottle shop manager to display a copy of an AHA NSW memo concerning the changes on December 16<sup>th</sup> 2014 and the OLGR signage addressing this issue is clearly posted at all till points.

These precautions were in place due to the responsible management policies the Border Inn upholds and were active before the TSDS came into effect. Despite this and our excellent compliance record, community references and the recommendation from the local police that no offence be laid against the license, the OLGR have continued with the charges.

It is the 'one size fits all' policy nature of the TSDS that may well encourage responsible publicans, like myself, to leave the industry. When public servants can 'discretionally' place a serious threat to the livelihoods of publicans and their staff based on whatever political offence may be on the radar at the time, makes me wonder if there are easier ways to make a living.

**Financial impact**

We have been actively fighting the strike against the license for almost 12 months and so far we are in for about \$12,000 in legal fees.

The OLGR also has the discretion to shut down our bottle shop for 7 to 28 days which would cost the business \$25,000 to \$100,000, and would cost the staff \$20,000 to \$25,000 in wages.

On top of this, the OLGR can also decide to shut down the entire business for 7 to 28 days which would cost the business \$400,000 to \$500,000, and up to \$100,000 in staff wages.

I believe it is important to look at what the outcomes of this policy have on all publicans. The fact that one offence can put you in financial and business limbo for the term of the strike is disproportionate and unfair.

If a business can show that it has been compliant and responsible then a fine and a warning would be as effective without the potentially financially devastating effect of a strike.

### **Unexpected consequences**

It is in my opinion that while I agree with the notion of targeting 'rogue' operators and flushing them out of the industry, I believe the TSDS has dire unintended consequences that ultimately lead to its ineffectualness.

The fact that the strike sits against the license of the venue - as opposed to the licensee - has the potential for devastating repercussions for a business. For example, if a hotel is for sale when a strike is applied that may potentially cause negotiations to fall through and may at the very least allow leverage to a purchaser. Who knows the dollar value cost to a publican then? All because (despite best efforts from responsible management) a staff member made one, mistake one time.

### **Supporting documents**

In relation to the offence that occurred at the Border Inn Hotel, January 6 2015, reference A32979.

Please find attached our submission regarding this offence pointing to duty of care prior to the offence taking place, a history of compliance and a proactive approach to our RSA through our business practices and involvement in the Murray Shire Liquor Accord.

These are the facts of our experience so far:

1. All employees are made aware of our policy in regards to our RSA obligations at induction.
2. On receiving an AHA memo regarding the changes on 16<sup>th</sup> of December, our bottle shop manager was instructed to post a copy of the memo at all till points and managers were notified to be extra vigilant.
3. OLGR signage in relation to this issue was posted at all till points.
4. As a result of these actions the staff member was stood down from regular casual shifts for 30 days and issued with a written warning.
5. CCTV provided to the police as evidence was provided through our internal system shows a co-operative and proactive response with police through the hotel.
6. Note that the staff member was also fined approx. \$1100.00 for his actions.

Other documents and information provided in this submission are to show that we have a record and reputation as proactive and responsible hoteliers in our community.

1. I am currently the vice president of Murray Shire Liquor accord and have attached a reference from Wayne Sutton, President of MSLA & CEO of the Rich River Golf in relation to our business practices, participation and good standing in our Liquor Accord.
2. In relation to our commitment to responsible service we provide an 11 seat courtesy bus to our patrons, at our own cost, which is indicative of our attitude to responsible service.
3. Our staff Facebook group has constant reminders and references to RSA as a means to ensure good practices from our staff.
4. Board member's Adrian and Julianne Daly are owners, work in the hotel and are foundation members of CAD (Community against Drugs), playing a major role in the battle against drugs, in particular, ICE, in our community, indicative of our actions in the community.
5. The licensee at the Border Inn Hotel has changed due to the recent retirement of the previous licensee.
6. We have a history of co-operation with police and have provided information and CCTV vision in relation to non-hotel investigations on a number of occasions.
7. \*In relation to the penalty notice (licensee permit intoxication on licensed premises), I personally dealt with this case, short story, bucks party enters hotel, have been at another venue, mild intoxication at best, staff relate to party that no more drinks will be served, I organise transport for

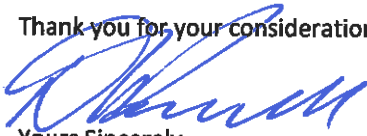
half the party (at the time courtesy bus had a capacity of 6), and had arranged transport for the remainder, I explain this to police as I exit hotel to attend Grand Final celebrations. Receive notification of penalty from staff later that evening. In retrospect I would and should have contested first breach against our license in 30 years in the hospitality business.

8. If necessary I am happy to obtain documentation from the NSW Police through the freedom of information act showing supporting information (walk through records) in relation to our record and business practices.

I would like to conclude this submission by once again acknowledging the devastating consequences a Strike would have on the Border Inn Hotel and state my opposition to the current Scheme.

Changes need to be made to ensure responsible operators, and their businesses, are protected in circumstances utterly out of their control.

Thank you for your consideration of this submission.



Yours Sincerely,

Danny Powell

Manager

Border Inn Hotel