



Full Day Hansard Transcript (Legislative Council, 16 October 2013, Proof)
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Extract from NSW Legislative Council Hansard and Papers Wednesday, 16 October 2013 (Proof).

LIQUOR AMENDMENT (KINGS CROSS PLAN OF MANAGEMENT) BILL 2013

Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [8.46 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

Over the last 12 months the Government has taken decisive action to clean up Kings Cross and make it safer for the residents of and visitors to this internationally recognised entertainment precinct.

Plan of Management

In September 2012 the Government released its Plan of Management, which provided a comprehensive set of measures to reduce alcohol-related violence and improve the safety and amenity of Kings Cross.

Under the plan the Kings Cross precinct has been consolidated and expanded to capture more than 130 venues, including licensed premises in parts of nearby Potts Point and Darlinghurst.

As a result, these venues are now subject to regulatory controls applying to the precinct.

The liquor freeze applying to Kings Cross has been extended until December 2015, which means that no new high-impact licensed premises such as hotels and nightclubs can be established in Kings Cross during this period.

Under the Plan of Management licensees and staff of Kings Cross licensed premises are required to complete Responsible Service of Alcohol [RSA] training to ensure they have recent and contemporary knowledge of the responsible serving laws and to hold a competency card.

Since December 2012 special conditions imposed by regulation have applied to Kings Cross licensed premises.

These conditions include a requirement to either cease alcohol sales for an hour before closing for late-trading venues or operate a timeout for one hour for 24-hour trading venues as well as drink restrictions, closed-circuit television [CCTV] requirements and RSA marshals to be engaged after midnight on weekends.

I am pleased to report that since the start of the regulation in December 2012, in the period to 31 March 2013 there was a 33 per cent reduction in violent incidents in licensed premises compared to the previous year.

The Government's Plan of Management has also resulted in amendments to the Liquor Act to establish a new small bar licence, which has been available since 1 July 2013.

The small bar licence, which is available in Kings Cross and elsewhere across the State, recognises the need for smaller, more intimate venues and addresses concerns about bars growing in size over time thereby contributing to harm in high-density precincts such as Kings Cross.

Small bar licence applications in the City of Sydney are also being considered as part of the trial of the new Environment and Venue Assessment Tool, which considers a number of venue risk factors including locality, capacity and licence type.

The Government recognises that there is more work to be done to further improve the safety of Kings Cross.

The *Liquor Amendment (Kings Cross Plan of Management) Bill 2013* is the second major tranche of the Government's Plan of Management to reduce alcohol-related violence in Kings Cross.

The bill contains two significant measures to help further improve the precinct's safety and enable action to be taken against troublemakers.

Banning orders

The bill will enable precinct-wide temporary banning orders to be issued by police for up to 48 hours.

A temporary banning order can be issued to a person who refuses to comply with a move-on direction given by police or a person who is drunk, violent or disorderly and refuses to leave licensed premises or the vicinity of licensed premises or attempts to re-enter licensed premises within 24 hours of being asked to leave.

A temporary banning order, which is for up to 48 hours, can apply to one or more licensed premises in the Kings Cross precinct.

Importantly, a temporary banning order can only be issued by a police officer of or above the rank of sergeant who is satisfied that the person's continued conduct is likely to cause a public nuisance or a risk to public safety.

The bill will also enable the Independent Liquor and Gaming Authority to issue a long-term precinct-wide banning order that will prohibit the subject of that order from entering or attempting to enter high-risk licensed premises in the Kings Cross precinct for up to 12 months.

A long term banning order can only be issued by the Independent Liquor and Gaming Authority where it is satisfied that the person has been charged with or found guilty of a serious criminal offence involving alcohol-related violence or the person has been issued with three temporary banning orders in the previous 12 months.

These new banning orders will complement and strengthen the existing banning provisions available to all licensees under the liquor laws.

They send a clear message to troublemakers visiting Kings Cross that if they make trouble they face a ban on entering all high- risk licensed venues in the precinct for up to 12 months.

These bans will provide police with new tools to help improve the safety of the Kings Cross precinct and ensure serious troublemakers do not cause ongoing problems for the operators of licensed venues.

The bill sends a message to troublemakers that violent and disruptive behaviour can have significant consequences.

Maximum penalties of \$5,500, or a \$550 penalty notice, will apply where a person subject to a temporary banning order enters or attempts to enter any Kings Cross licensed premises.

A maximum penalty of \$5,500, or a \$2,200 penalty notice, will also apply where a person enters or attempts to re-enter a high- risk licensed venue while subject to a long-term banning order.

To ensure natural justice principles are maintained, the bill will enable a person who is the subject of a long-term banning order to seek a review of the Authority's decision by the Administrative Decisions Tribunal.

ID system and scanners

I now turn to those provisions in the bill that prescribe the operation of a central ID scanning system and the requirement for all high-risk venues in the Kings Cross precinct to operate a linked ID scanner to prevent those persons issued with a banning order from entering licensed premises.

This is an appropriate and necessary measure to complement the banning order provisions and help licensees and staff ensure those who have been issued with a banning order can be stopped at the door and not jeopardise the safety of patrons and staff inside licensed premises.

The bill allows the operation of a central ID scanning system and associated ID scanners in high-risk premises in the Kings Cross precinct to be trialled over 12 months.

High-risk venues are defined in the bill as those where liquor is sold for consumption on the premises, have approval to trade after midnight and, as determined by the Director General, NSW Trade and Investment, have a patron capacity of more than 120 patrons.

The bill also contains a regulation-making power to enable a venue to be exempted from the ID scanning requirements as a high- risk venue where it is considered appropriate in certain circumstances.

Any consideration of a venue being exempt from the ID scanning requirements will be examined closely and take into consideration factors such as the risk to public safety, the primary purpose of the venue and its compliance history.

The Director General, NSW Trade and Investment may, with the agreement of the police commissioner, also designate a venue as a high-risk venue if satisfied that there is a significant degree of alcohol-related violence or other antisocial behaviour associated with the premises.

Linked ID scanners will enable licensees to record the identity of all patrons and enable those persons who are the subject of a temporary or long-term banning order to be identified and prevented from entering the premises.

The use of ID scanners, which will be linked to a central scanning system, has been identified by industry through the Kings Cross Accord as an important strategy to reinforce the need for greater personal responsibility when socialising late at night in the precinct.

It follows a trial of ID scanners in Newcastle where a small group of licensees established the Newcastle Entertainment

Precinct and invested in ID scanning technology to implement a shared scanning and banning system with good results.

The system will enable high-risk venues to be automatically notified if a patron has been banned from other high-risk venues in Kings Cross or is subject to a short-term or long-term banning order.

A person who uses a false identification document when entering a high-risk venue can be issued with a \$5,500 fine or a \$550 penalty notice.

Appropriately, participating high-risk licensed venues will meet the cost of installing ID scanners on their premises.

The bill also recognises that there may be instances where either the central ID scanner system or patron ID scanners in licensed venues may break down.

It is not intended in these circumstances that a venue would have to close its doors and not allow people to enter because their identification cannot be scanned.

In these circumstances, the bill requires police be notified immediately and that a contingency protocol, approved by the Director General, NSW Trade and Investment, be complied with.

Privacy issues

The Government recognises that mandating the use of ID scanning equipment in licensed venues may cause concern for some people.

That is why the bill contains a number of safeguards to ensure the integrity of the precinct's ID scanning system with stringent controls on the use of personal data captured by the system and the operation of scanners used in venues.

The Director General, NSW Trade and Investment will be responsible for approving the operator of the ID scanner system and in doing so he may seek the concurrence of the Commissioner of Police and will ensure that the operator is suitable to operate the system.

In addition to imposing conditions on the approved operator relating to the disposal and retention of data held on the scanning system, the Director General can also revoke an approval to operate an ID scanning system at any time.

Further, to ensure there is no conflict of interest or potential for data to be shared between the approved scanning system operator and licensees, an entity that is a close associate of a licensee or has an interest in licensed premises cannot be approved to operate the system.

The Director General's approval will be subject to a range of statutory and other conditions to safeguard any information held on the system.

This includes a requirement that any data held on the system must not be transferred to any place outside Australia, other than New Zealand, and it must comply with Federal privacy laws.

In addition, data can only be held for up to 30 days, except for information relating to a person who is the subject of a long-term banning order or at the request of the Commissioner of Police.

State government agencies accessing the ID scanner data, including the NSW Police Force and the Office of Liquor Gaming and Racing, will be subject to the NSW Privacy and Personal Information Protection Act 1998.

Licensees must also implement a privacy management plan and a privacy policy, which must first be approved by the Kings Cross Accord and the relevant industry association.

Privacy training

As a further safeguard, the bill will require all licensees and staff operating ID scanners to undergo privacy training which will be endorsed on their responsible service of alcohol competency card.

This training will focus on privacy and related requirements contained in this bill as well as Federal privacy principles.

It is expected that this privacy training will be available online from the Office of Liquor, Gaming and Racing's website to help reduce time and travel costs for those who need to complete this training.

A new competency card will be issued by the Office of Liquor, Gaming and Racing following completion of privacy training that contains an endorsement that the privacy training has been completed.

The bill will also allow the Director General, NSW Trade and Investment to impose a \$30.00 fee prior to issuing a new competency card with a privacy endorsement.

This fee will help to offset some of the costs incurred by the Office of Liquor, Gaming and Racing in processing and issuing a new competency card.

The bill also allows a certificate to be issued where privacy training has been completed, which will allow people to operate ID scanners in Kings Cross licensed premises for up to 28 days until they receive a new competency card

containing a privacy training endorsement.

Revocation of competency cards

The bill will enable the Independent Liquor and Gaming Authority, upon application by police or the Director General, to suspend, revoke or disqualify a person for up to 12 months from holding a responsible service of alcohol competency card.

This action can be taken where the authority considers the person has contravened their privacy obligations or otherwise misused data collected in operating a patron ID scanner.

The authority can also make an order if it is satisfied that a person has contravened obligations that relate to the responsible service of alcohol, such as serving liquor to intoxicated persons or minors.

This is a significant but necessary deterrent to ensure patrons' private information is not abused or misused by staff of licensed premises in any way or provided to a third party.

The bill recognises the significant consequences of revoking a person's Responsible Service of Alcohol competency card, which is effectively a licence to work in the New South Wales liquor industry by allowing a person to seek a review by the Administrative Decisions Tribunal of a decision made by the authority.

Sanctions will apply to the unlawful use of a competency card to ensure the integrity of the privacy provisions in this bill.

Penalties of up to \$5,500 apply where a person works in New South Wales licensed premises with a suspended competency card or where they have been disqualified from holding a competency card, while penalties of up to \$2,200 will also apply where a competency card is not surrendered to the authority.

As a protection for licensees in circumstances where a person does not surrender their card, the bill provides that licensees and employers do not commit an offence if they employ a person who holds a recognised competency card that appears to be current, and the licensee is satisfied that the card is current.

This bill represents the first time the use of ID scanning equipment in New South Wales licensed venues has been mandated.

Therefore it is important that the operation of the ID scanner provisions be reviewed as soon as practicable.

That is why the bill requires the ID scanner provisions to be reviewed after 12 months to determine whether the policy objectives of the scheme remain valid.

This will provide an opportunity to consider whether the privacy safeguards applying to the Kings Cross ID scanner system and patron ID scanners in licensed premises are adequate and, where necessary, consider further reforms to ensure people's personal information collected in licensed venues is not being compromised.

Performance of licensed premises

In addition to the banning order and ID scanner provisions, the bill also introduces a range of measures aimed at improving performance by licensed venues within the Kings Cross precinct.

These include requiring approved managers in high-risk Kings Cross venues to be appointed at certain times when the licensee is absent to assist in the proper supervision and management of licensed premises.

These approved manager provisions will be subject to a regulation being made later this year.

The bill also provides a notice to be displayed by licensed venues to help inform patrons and the local community about the venue's liquor trading hours.

This sign will be developed in collaboration with the City of Sydney Council to ensure relevant liquor and development consent trading information is included in this public notice.

Alcohol sales data

The bill also specifies when the collection of alcohol sales data from Kings Cross venues where liquor is consumed on the premises will commence and that this will be on a quarterly basis.

This data will help shape compliance efforts by police and Office of Liquor, Gaming and Racing inspectors as well as future policy decisions by the Government.

The Office of Liquor, Gaming and Racing will liaise with the Kings Cross Accord and affected Kings Cross licensees prior to the first data return falling due in terms of the format and nature of the data to be provided.

The bill also provides certainty for the holders of a general bar liquor licence that a community impact statement is not required where they wish to convert their business into a small bar by 31 December 2013 by applying for a new small bar licence, so long as development consent has been obtained to sell liquor at times proposed in the small bar licence application.

This bill is yet another example of the Government taking decisive action to tackle alcohol-related crime and antisocial behaviour in Kings Cross.

Action being taken to improve Kings Cross, including measures contained in this bill, is being complemented by statewide measures to reduce alcohol-related violence.

This includes the Three Strikes disciplinary scheme in which more than 50 venues across the State have incurred strikes.

At least two of those venues have incurred two strikes and are potentially just one strike away from losing their right to sell liquor.

The Government's trial of three sobering up centres has also commenced, including the operation of a mandatory sobering up centre in Sydney's central business district, which will enable drunken troublemakers who ignore move-on orders from police in Kings Cross and elsewhere to spend the rest of their night in this facility.

The Government will continue to monitor the effectiveness of its reforms for Kings Cross.

If necessary, further measures will be considered by the Government to minimise alcohol-related violence and antisocial behaviour in the Kings Cross precinct.

I commend the bill to the House.