

## Agreement in Principle

**Mr JOHN AQUILINA** (Riverstone—Parliamentary Secretary) [10.02 a.m.]: I move:

That this bill be now agreed to in principle.

The Liquor Legislation Amendment Bill 2010 is a key component of the Government's comprehensive plan to assist New South Wales residents to enjoy safe nights out in popular entertainment precincts without the hassle of alcohol-fuelled violence and antisocial behaviour. The bill implements some of the measures in the Government's Hassle Free Nights Action Plan. The action plan consists of a range of initiatives to further reduce alcohol-related crime in some of the most popular entertainment precincts in New South Wales, including areas of the Sydney central business district, Manly, Newcastle-Hamilton, Wollongong and Parramatta. The action plan also includes measures that will improve liquor licensing outcomes across New South Wales.

Significant progress has been made in reducing alcohol-related crime, with the Bureau of Crime Statistics and Research reporting that assaults on licensed premises dropped by 8.8 per cent over the two years to September 2009. There has also been a significant downward trend in non-domestic violence assaults. In the quarter ending September 2009 this type of assault dropped by 11.6 per cent in the Sydney local government area and 4.5 per cent across the State. Early indications are that the tough conditions imposed on the most violent venues have made a significant contribution to reduced rates of alcohol-related violence in and around licensed premises. The NSW Police Force has reported that the incidence of glassings dropped by 23 per cent in 2008-09, compared with 2007-08. There was also an 86 per cent reduction in glassings in the most violent licensed premises following imposition of licence restrictions on these venues from 1 December 2008.

While good progress has been made, there is more to be done in this area. The Government is determined to continue to tackle the ongoing problem of antisocial drinking and alcohol-related violence. The Hassle Free Nights Action Plan brings together law enforcement agencies, government departments, local councils, community representatives and industry to work collaboratively on delivering sustainable and long-term solutions to the unique issues faced by the different precincts. Prevention is the best cure. That is why the plan focuses on early intervention strategies that reduce risks and stop problems before they occur. One of the most significant initiatives in Hassle Free Nights, which will be enabled by this bill, is the establishment of precinct liquor accords.

Under the bill, the Director General of Communities NSW will be able to designate a precinct as one to which a precinct liquor accord is to apply or an event to which a community event liquor accord is to apply and may approve the terms of the particular accord. To do so, the director general will need to be satisfied that in the precinct there is, or there is a potential for, a significant risk of harm to members of the public associated with the misuse and abuse of liquor, including harm arising from violence or other antisocial behaviour. The director general must also be satisfied that the measures to be adopted by the accord are necessary to prevent harm to members of the public associated with the misuse and abuse of liquor in the precinct or area, or to protect and support the good order or amenity of the precinct or area in connection with issues arising from the presence or proposed increase in the number of licensed premises in the precinct or area.

Five high-risk precincts where liquor accords will be established have already been identified. The precincts are the Sydney central business district and surrounding areas, Manly, Newcastle and Hamilton, Parramatta and Wollongong. There is a history of alcohol-related problems in these precincts and they can obviously benefit from the types of measures that will be developed under a liquor accord. While the initial focus is on these five precincts, the legislation provides for the establishment of precinct liquor accords in other areas if that is necessary. Another new initiative in the bill is a community event liquor accord. The Government has already identified New Year's Eve, Australia Day celebrations, the Sydney Gay and Lesbian Mardi Gras and the Bathurst car races as examples of events that may be subject to community event liquor accords.

Accords may also be established for other events when there is a significant risk of harm to members of the public associated with the misuse and abuse of alcohol, and accord measures are necessary to prevent that harm or to protect and support the good order or amenity of the area in which the event is being held in relation to certain issues. An important principle driving the establishment of precinct liquor accords and community event liquor accords is that of local stakeholders coming together to develop local solutions to local problems. This is an established principle that has applied to local liquor accords for many years. The precinct liquor accord and community event liquor accord provisions in this bill are based on existing local liquor accord provisions in part 8 of the Liquor Act. However, there are some important differences from local liquor accords, and that is why the bill establishes a new division in part 8 of the Act.

It is hoped that licensees and other businesses in designated precincts or areas will opt to voluntarily implement the measures in the liquor accord to minimise or prevent alcohol-related violence or antisocial behaviour or other alcohol-related harm, or to protect and support the good order or amenity of the precinct or area. However, when

a licensee does not participate voluntarily the bill allows the director general to impose a condition on a liquor licence requiring participation if the licensed premises are situated in the precinct or area to which an accord applies. While the bill requires that a licensee be notified of a requirement to participate, it does not provide for a review of the director general's decision requiring participation.

Licensed venues that trade after midnight and are located within a designated accord precinct or area will automatically be required by the bill upon notification by the director general to participate in an accord. This will include licensed karaoke venues that trade after midnight. Non-compliance by these licensees will be a breach of a licence condition, which can result in a maximum penalty of \$11,000 or ultimately in disciplinary measures such as suspension or cancellation of the licence. The Government recognises that these are tough provisions. But they are necessary if we are to reduce alcohol-related violence and antisocial behaviour. They send a strong message to licensees in high-risk precincts and areas where events are held that they must be a part of the solution in addressing alcohol-related harm and protecting and supporting the good order or amenity of their local area.

For liquor licensees, the bill defines participation in an accord as including participation in the development of the accord's measures as well as complying with those measures to the extent that they apply to the licensee. This will ensure that relevant licensees are engaged in the accord process through consultation in the development of measures and during the operation of an accord. Although this bill necessarily focuses on licensed venues, it is clear that an holistic approach is required to reduce alcohol-related harm. As I have already mentioned, other stakeholders will need to contribute to an accord in addition to liquor licensees. Those stakeholders will play a vital role in helping to deliver accord outcomes and the success of accord initiatives will depend on their participation and support. This is recognised in the bill, which provides that a range of persons or bodies in addition to liquor licensees may participate in a precinct liquor accord or community event liquor accord.

Those persons or bodies include the NSW Police Force, local councils, persons who are running businesses or commercial operations in the precinct or area, community representatives approved by the director general and any other person or body that the Director General of Communities NSW considers appropriate. It may not be necessary for all these stakeholders to participate in every accord. However, a collaborative approach is vital in minimising or preventing alcohol-related harm and protecting and supporting the good order or amenity of a precinct or area. The Government therefore expects all stakeholders to work together to secure these accord objectives. Accords will include measures that the Director General of Communities NSW considers necessary to achieve certain aims.

The bill provides guidance as to the types of measures that accords may provide for, including ceasing to serve liquor early, establishing lockouts, restricting the use of glass containers, installing closed-circuit television or other security devices, and providing security staff. Those types of measures have been identified in the liquor laws for some years as measures that a local liquor accord can implement. The bill also recognises that accords may provide for measures requiring licensees to do other things in order to minimise alcohol-related harm or to protect and support the good order or amenity of the precinct or area to which the accord applies in connection with issues arising from the presence or proposed increase in the number of licensed premises. This could include adopting management practices to encourage improved patron behaviour, the provision of transport and security, patron education and training for venue staff. Once the necessary measures to be provided for by an accord have been developed, the accord can be approved by the Director General of Communities NSW.

The bill requires that each participant in a precinct liquor accord or community event liquor accord be notified of the terms. The director general will ensure the designated precinct to which an accord applies is shown on a publicly available map. For community event liquor accords the director general will make publicly available the name or description of the community event to which the accord relates, the period during which the accord is to apply and a map showing the areas in which the accord is to apply. Under the Hassle Free Nights Action Plan the Government has committed \$1 million over 12 months to support the work of the precinct liquor accords. The main purpose of this contribution by government is to work with the local partners in these precinct liquor accords to establish new local projects under specified categories that have the potential to significantly reduce the risk and consequences of alcohol-related violence and antisocial behaviour.

The Government will contribute to the cost of implementing these projects provided that licensees also contribute funds on a 50:50 basis with the Government. Funds may also be directed towards supporting the operation of the precinct liquor accords. All funded projects will include an evaluation to build the evidence base in this area. In instances where precinct liquor accord participants refuse to voluntarily provide funds for the accord strategies, the bill allows the Director General of Communities NSW to direct a licensee to contribute to the costs associated with the operation of the accord. The amount of any such contribution is to be determined by the director general in accordance with the terms of the accord. This provision will help to ensure that responsibility for accord initiatives is shared equally across government and those industry stakeholders who will benefit from the safer environment that will flow from a precinct liquor accord. Non-compliance with a direction can ultimately result in disciplinary action under the Liquor Act, which could lead to suspension or cancellation of a liquor licence.

The community has expressed concern about extended trading hours for licensed venues. The Government

understands that mechanisms must be available to promptly and appropriately address the trading hours where necessary. Therefore, the bill also amends the Liquor Act to provide the Director General of Communities NSW with the power to reduce or vary a licensed venue's trading hours. Specifically, the director general will be empowered under section 54 of the Liquor Act to impose a condition to prohibit the sale or supply of liquor before 10.00 a.m. and after 11.00 p.m. or to vary or revoke such a condition. The director general will also be able to restrict the trading hours of, and public access to, licensed premises. These powers mirror the director general's existing powers under section 81 of the Act in relation to disturbance complaints. They can be applied to individual licensed venues throughout the State and will not be limited to venues in accord areas.

Licensees will continue to have the right to be heard and the right to seek a review by the Casino, Liquor and Gaming Control Authority. Clarifying the director general's power under section 54 will promote transparency and reduce red tape in regulating trading hours. It will improve the Government's ability to promptly and appropriately reduce the risk of alcohol-related violence. In relation to trading hours, I point out that it is possible for the measures developed by participants of precinct and community event liquor accords to include reductions to trading hours. When this type of outcome is approved as a term of an accord, licensees required to participate in the accord may be required to comply. As I have already indicated, licence conditions requiring participation in an accord, and thereby also requiring compliance with the measures provided for by the accord, will not be reviewable by the Casino, Liquor and Gaming Control Authority. This is appropriate given that action under the accord framework to reduce trading hours will be on the basis that a reduction is necessary for the good of the precinct or area and will apply across a range of accord participants.

We need to ensure that licence conditions are well understood and that they tangibly contribute to making venues safer and to ensuring that they are better managed. The Government's experience in imposing a common set of conditions on the most violent licensed premises has worked well. Standardising conditions for venues that are alike in their operations and risk levels provides clarity, reduces compliance costs and addresses competitive concerns, which can act as barriers to effective outcomes. Under the Hassle Free Nights Action Plan Communities NSW will consult with relevant agencies and stakeholders in reviewing conditions of licences in a designated precinct liquor accord. This review will develop and apply optimal standard conditions to venues to promote community safety and ensure proportionate, transparent and effective regulation of industry.

The Government will trial the application of standard liquor licence conditions for venues in the precincts where accords will be established. The standard conditions will operate alongside relevant tailored conditions specific to that venue. The standard conditions may be modified to accommodate individual circumstances where appropriate. Some existing conditions may need to be varied or revoked as part of the trial of the standard conditions. Therefore, the bill also amends section 54 of the Liquor Act to allow the director-general to vary or revoke a condition of a licence that has previously been imposed by the director-general or by the Casino, Liquor and Gaming Control Authority for premises situated wholly or partly in an accord precinct or area. The intended result is a simplifying and streamlining of conditions, which will reduce the costs of compliance for industry without lessening the protection of patrons and the community. These simplified conditions can also be used as a model for licensed venues outside the precinct liquor accord areas. This process will support the Government's commitment to reducing red tape.

Again licensees will continue to have the right to be heard and the right to seek a review by the authority of the director-general's decision. In 2009 the Government amended the Liquor Act to impose a 12-month freeze on certain new liquor licences and related development applications in Darlinghurst, Kings Cross and the southern Sydney central business district. Among other measures as a result of the freeze, no new liquor licences for new pubs, bars, clubs, nightclubs or liquor stores will be granted for premises situated in identified freeze precincts. The law currently provides that the freeze will end on 24 June 2010. However, the bill extends the freeze in these locations for a further 12 months.

This extension will allow a more comprehensive assessment of the effectiveness of the liquor licence freeze to be undertaken. It will also allow Communities NSW to undertake a comprehensive review of the potential applicability of the liquor licence freeze in additional high risk precincts. If this review finds that a freeze is warranted in any additional locations, Communities NSW will provide the Government with advice about the scope and extent of any proposed freeze on a location-by-location basis. Alcohol-free zones and alcohol-prohibited areas help to reduce incidents of public drunkenness, alcohol-related anti-social behaviour and crime. The alcohol-free zone laws were amended by the Government in 2008 to allow alcohol that is being consumed in a zone to be confiscated.

Alcohol can be confiscated also if a police officer or an enforcement officer has reasonable cause to believe that the person is about to drink or has recently been drinking that alcohol in the alcohol-free zone. These are more commonly referred to as "tip-out" powers because confiscated alcohol may be disposed of immediately by tipping it out, in accordance with directions given by the Commissioner of Police or the council. Local councils have raised concerns with the Government about inconsistencies in the rules around the confiscation of alcohol in alcohol-free zones and in alcohol-prohibited areas. Alcohol-prohibited areas are public places in which the drinking of alcohol is prohibited by a notice erected by a local council under section 632 of the Local Government Act 1993. At present alcohol that is being consumed in these areas cannot be confiscated. Instead, a fine applies where a person fails to comply with the terms of a notice.

During popular events where groups of friends gather to celebrate in public locations, such as Australia Day, the inconsistencies in the rules applying to the two types of areas create challenges for enforcement officers. Therefore, the bill implements the tip-out arrangements in alcohol-prohibited areas so that there is a consistent approach to restricting the drinking of alcohol in designated public spaces during these popular events. The amendments to the Local Government Act in this bill will provide for confiscation of alcohol by police officers or authorised council enforcement officers in alcohol-prohibited areas where the area is situated wholly or partly in a precinct liquor accord area or in a community event liquor accord area.

The existing fine will continue to apply when a person fails to comply with the terms of a notice erected under section 632 of the Local Government Act. Another key component of the Hassle Free Nights Action Plan is to strengthen the existing scheme under the Liquor Act, which imposes special conditions on the most violent licensed premises. We need to be sure the scheme properly targets those hotels, clubs, bars and other licensed venues that are the site of violent incidents. And it is not only assaults that account for violent activity occurring in and around licensed venues; there are other categories of incidents which are equally detrimental to the safety and wellbeing of patrons and the community. That is why the scheme is being strengthened so that a wider range of violent incidents is captured.

From the period that commenced on 1 December 2009 the data that is collected and assessed to determine the most violent licensed premises across the State is no longer limited to assaults. The types of incidents included in the scheme have been expanded to include other violent offences including grievous bodily harm, sexual assault and homicide. The Government has also ensured that alcohol-related incidents that can occur at a particular licensed venue or in the immediate vicinity of the licensed premises, such as the footpath directly outside or the venue's car park, are attributed to licensed premises.

These changes are implemented by a separate regulation under the Liquor Act and apply to the scheme from 1 June 2010. Greater individual responsibility for the consumption of alcohol is also a key issue if we are to reduce the incidence of alcohol-related violence and ensure more responsible consumption of alcohol. Under the Hassle Free Nights Action Plan the Government will better inform individuals about the health and justice consequences of irresponsible behaviour. The Government will create a cross-agency steering group to oversee the development of consistent messages in this area. This will support the implementation of a coordinated individual responsibility campaign providing the community with information on the health, security, transport and justice implications of the consumption of alcohol.

The campaign will aim to ensure patrons are aware of the risks and their responsibilities and obligations. Patron education has been identified as a category for which Government funding will be made available. It makes sense for accords to promote individual responsibility through their local initiatives, as a grass roots approach can give people an opportunity to ask questions and receive answers from people who are trained in the responsible service of alcohol. The Government will be working with precinct liquor accords to identify how they can best implement appropriate patron education initiatives that could qualify for funding. Some good work has already been undertaken by local liquor accords in recent years. A number of accords have implemented patron education initiatives to support the responsible service and consumption of alcohol requirements of the liquor laws.

Precinct liquor accords will be able to build upon this work to support education about the consequences of irresponsible consumption and behaviour by patrons. Those consequences can be serious. The implementation of Hassle Free Nights will be overseen by the Alcohol Implementation Team, which is chaired by the Director-General of Communities NSW. This team includes senior representatives from Communities New South Wales, the New South Wales Police Force, the Department of Premier and Cabinet and the Department of Justice and Attorney General. The Alcohol Implementation Team is responsible for advising the Government on progress with these initiatives. This ensures that ongoing specialist advice is provided to Government. I commend the bill to the House.