

**Submission  
No 105**

## **MEASURES TO REDUCE ALCOHOL AND DRUG- RELATED VIOLENCE**

**Organisation:** AHA NSW  
**Name:** Mr John Green  
**Position:** Director Policing Regulations and Membership  
**Date Received:** 15/08/2014

**AHA**  
**NSW**

AUSTRALIAN HOTELS  
ASSOCIATION  
NEW SOUTH WALES

SINCE 1873

**AHA**  
**NSW**

Submission to the *Inquiry into  
measures to reduce alcohol  
and drug-related violence*

# Contents

<b>1. Executive Summary .....</b>	<b>3</b>
<b>2. Introduction.....</b>	<b>4</b>
<b>3. The Australian Hotels Association (AHA) NSW .....</b>	<b>5</b>
A snapshot.....	5
<b>4. Trends in alcohol and drug related violence in licensed venues and general street areas.....</b>	<b>5</b>
4.1 Alcohol or Drug - Related Violence? .....	5
4.2 Assaults on/near hotels.....	6
<b>5. The impact of recent measures to reduce violence on - the Liquor Industry.....</b>	<b>7</b>
5.1. Lockouts/curfews/ one way door policies .....	7
5.2 The “Newcastle Model” – flaws and fallacies .....	8
5.3 Impact on licensed premises in Sydney CBD Precinct .....	11
<b>6. Possible further measures to reduce alcohol and drug-related violence .....</b>	<b>11</b>
6.1 Courts/legal system – tougher consequences.....	11
6.2 Education and training .....	11
6.3 Policing .....	12
6.4 Better transport options.....	12
6.5 Improved environment .....	12
<b>7. The effectiveness of measures taken to reduce alcohol and drug-related violence in other jurisdictions.....</b>	<b>12</b>
<b>8. CONCLUSION .....</b>	<b>13</b>



## 1. Executive Summary

Violence and anti-social behaviour in and around licensed premises are at their lowest levels since 1998, due largely to the co-operation and collaboration between local police and licensees.

The Australian Hotels Association (AHA) NSW is the pre-eminent hospitality industry association in NSW. We represent more than 1800 members across NSW including a number of small business owners that operate licensed premises in the Sydney CBD and Kings Cross entertainment precincts – from traditional pubs, bars, nightclubs to the many five star accommodation venues.

The NSW Legislative Assembly's Committee on Law and Safety is currently conducting an inquiry into measures to reduce alcohol and drug related violence, to report on those measures recently introduced with particular reference to;

- Trends in alcohol and drug-related incidents in licensed venues and general street areas
- The impact of recent measures to reduce violence on police, the courts, hospitals and the liquor industry
- Possible further measures to reduce alcohol and drug-related violence
- The effectiveness of measures taken to reduce alcohol and drug-related violence in other jurisdictions
- Any other related matters

Sydney has a vibrant and predominantly safe night time economy with levels of assault in and around the entertainment precincts falling.

People should be able to go out in safety, without fear of being accosted by violent or intoxicated people, be that in public places or in the many licensed premises in our city. The challenge that we as a community need to meet is to find ways of further reducing these incidents and improving the amenity of the city.

Violence and anti-social behaviour in and around licensed premises are at their lowest levels since 1998, due largely to the co-operation and collaboration between local police and licensees.

What we as a hospitality industry association - and our members - desire is that the streets and public places in Sydney's CBD entertainment precinct are as safe and vibrant as in our member premises. This will only be achieved through the development of collaborative strategies that do more than merely displace the problems into other areas, including private homes, industrial areas, outer precinct zones and suburban precincts – or shut things down.

We are pleased to provide this submission to assist this inquiry and welcome any questions you may have.

## 2. Introduction

Over the last 24 months, there have been a number of cowardly “one punch’ attacks on the streets of Sydney, at all hours of the evening and night. A common theme through almost every incident: these are crimes that have occurred on public streets. They represent the commission of a criminal assault upon another person – often by people on bail, on remand or who have previously been before the courts.

The other aspect that is clear is that these assaults, including two tragic fatal incidents occurring at 9.00pm and 10.00pm in almost the same place on a public street, and another series along George Street (excepting one) have no direct relationship to licensed premises. In the one incident that did involve a licensed premise the victim was a security officer, king-hit for merely doing his job in refusing entry to an aggressive male. These incidents were the catalyst for a sustained campaign where evidence and fact were soon abandoned for rhetoric and point-scoring.

On 21 January 2014, former NSW Premier The Hon. Barry O’Farrell, MP announced unprecedented measures to address violence on our streets, although predominantly targeting licensed premises with no history of violence.

The passing of legislation by Parliament imposing measures including the implementation of a 1.30am lockout, 3.00am cease service of alcohol and other measures “blanketed” across a newly created Sydney CBD Entertainment Precinct; plus the two hour reduction in trading hours for takeaway sales of liquor across NSW seemed to ignore the recommendations of the NSW Government’s own independent statutory review of the *Liquor Act 2007*, which largely rejected these exact strategies.

Since the Liquor Act 2007 commenced on 1 July 2008 compliant and responsible licensed premises in the Sydney CBD have been subject to a large number of regulatory interventions, including the “Top 48” the Tiered Scheme for venues with high levels of violence, liquor licence freeze, Sydney Liquor Taskforce, Hassle Free Nights, Precinct Liquor Accords and most recently the 1.30am lockout, 3am cease service of alcohol and other restrictions imposed through the Sydney CBD Plan of Management. The constant changes against a backdrop of significant reductions in violence and anti-social behaviour provides a difficult and uncertain business environment.

The AHA NSW believes that a proper evaluation of the measures must be undertaken sooner rather than later, assessing each of the measures individually and not as a “suite of measures”. The NSW Legislative Assembly’s Law and Safety Committee inquiry into the effectiveness of these measures is the first opportunity to examine these measures and we welcome being part of that process.



### **3. The Australian Hotels Association (AHA) NSW**

#### **A snapshot**

The AHA NSW is the pre-eminent hospitality industry association in NSW, a federally registered industrial relations association representing employers of labour. We have a membership comprising over 1800 licensed premises throughout NSW including hotels, pubs, taverns, small bars, function venues and golf resorts. More than 1000 of these operate within regional NSW.

Tourism Accommodation Australia (TAA) NSW is a division of AHA NSW which represents the accommodation and tourism sector of the industry. TAA NSW represents over 200 three, four and five star hotels in NSW, including national, international and independently-operated properties.

Whilst the primary purpose of licensed premises is the service and supply of liquor, our members provide far more to their communities with food, accommodation, gaming and entertainment providing key components of their service mix. Hotels in NSW;

- Employ more than 100,000 people
- Donate more than \$25 million per year to charitable, community and sporting organisations in NSW
- Serve 2.5 million meals to visitors and locals each week
- Contribute more than a billion dollars in taxes and other levies.

The role of AHA NSW is to represent the interests of these members across all levels of Government to allow them to conduct their businesses within the law and without impediment. Our strength as an industry advocacy group is the number of hotels, employees and people we represent.



### **4. Trends in alcohol and drug related violence in licensed venues and general street areas**

#### **4.1 Alcohol or Drug - Related Violence?**

NSW Police consider that an incident is “alcohol related” if either the victim or the offender involved in the incident has consumed alcohol before the event. The police computer system automatically records an event as alcohol related in these circumstances. By contrast, for an event to be classified as “drug related”, the reporting officer has to make a decision that the event only occurred because of, or related to the use, possession or selling of drugs – “if not for drugs, this would not have occurred”. Further, drugs are an illegal substance, so for someone to admit to drug use renders them liable to prosecution. It is easier (and legal) to just nominate alcohol as a substance that caused anti-social behaviour.

The Kings Cross Profile Report, prepared by the Office of Liquor, Gaming and Racing (OLGR) in the period following the fatal assault upon Thomas Kelly asserted that because licensed premises were refusing entry to, or requiring patrons to leave licensed premises if they

showed signs of intoxication (in compliance with the law), they were collectively responsible for the anti-social behaviour caused by those persons on the streets of Kings Cross.

This conclusion effectively tarred all venues in Kings Cross with the same brush, by grouping lawful and compliant premises with the relatively few rogue and recalcitrant ones. The report disregarded statistical data showing a minority of premises were responsible for the majority of police calls for service.

This report also failed to recognise City of Sydney studies that showed that the number of people in Kings Cross far exceeded the collective capacity inside licensed premises, meaning people were travelling to Kings Cross because it is Kings Cross, not to gain entry to premises.

#### 4.2 Assaults on/near hotels

Assaults in and around licensed premises in Sydney and across NSW are at their lowest levels in 15 years, based on independent data provided by the NSW Bureau of Crime Statistics and Research (BOCSAR).

Assaults in and around licensed premises in Sydney and across NSW are at their lowest levels in 15 years, based on independent data provided by the NSW Bureau of Crime Statistics and Research (BOCSAR). The graph below demonstrates the substantial reductions across various Local Government Areas in NSW in the five years to 2012, with the City North precinct alone (upper George Street and The Rocks) achieving a reduction of over 30%.

\_\_\_\_\_

Figure One  
Comparison of Non-domestic Assault rates by Local Government Area  
– 2008 to 2012 (Source: BOCSAR)

The same BOCSAR data identifies that five year reductions were far greater in many other Local Government Areas across NSW, including;

- Assault rates in and around all licensed venues in NSW are down 30% compared to five years ago – they are actually at their lowest levels since 1998.
- Assault rates in the Sydney CBD City North area are down about 30%
- Assault rates in/around licensed venues in Bathurst are down 32% from 2007 levels
- Assault rates in/around licensed venues in Gosford are down 53% from 2007 levels.
- Assault rates in/around licensed venues in Campbelltown are down 52% since 2006.
- Assault rates in/and around licensed venues in Kogarah are down 51% since 2008.
- Assault rates in/around licensed venues in Manly are down 19% since 2008.
- And, most interestingly Kings Cross assault rates were down 37% in the five years to July 2012, (even before the tragic death of Thomas Kelly).

#### **Note on BOCSAR data:**

It is important to understand that these BOCSAR crime reports look at raw crime statistics – those incidents reported to police. It does not analyse the information contained in the narrative of those police reports to determine what the circumstances were surrounding the incidents, who was involved, how serious and why they occurred. It also does not analyse the financial cost nor the number of people that simply stopped going to the hotels and it did not analyse the ratio of assaults to people that were out. This is not a criticism on BOCSAR, but a caveat on the use of the data that comes from it.

## **5. The impact of recent measures to reduce violence on - the Liquor Industry**

Prior to examining those measures imposed on the licensed premises within the Sydney CBD Entertainment Precinct, it is important to understand the genesis of those measures and whether they had validity prior to their imposition. In that regard, we have provided an overview of lockouts as a strategy, and an examination of the “so-called” Newcastle model, rejected by the former Government in late December 2013 / early January 2014.

### **5.1. Lockouts/curfews/ one way door policies**

#### **What is a lockout?**

A lockout, also known as a “curfew” or “one-way door policy” relates to a strategy where after a certain time, no new patrons may enter the licensed premises, but existing patrons may remain on that premises.

#### **Where do lockouts operate?**

A number of individual premises use lockouts as a method of controlling patron numbers in their venues. Towns or areas that advocate the success of lockouts are more often regional towns that are considered as “closed” environments; in that there are no other premises or neighbouring towns providing potential entertainment venues - other than someone’s home or a public place.

Lockouts are dealt with under the Liquor Act 2007 and, as such, only relate to licensed premises.



## 5.2 The “Newcastle Model” – flaws and fallacies

Two years after the introduction of the Newcastle Model, Newcastle lagged badly behind the reduction in assaults experienced in and around all licenced premises in NSW.

Since 2008, various groups have promoted a series of conditions imposed upon 15 late trading hotels in the Newcastle central business district as the panacea for alcohol related anti-social behaviour and violence. Known variously as the “Newcastle model”, “Newcastle trial” or “Newcastle solution” – the set of sanctions placed upon the licences of the late trading hotels were a component of a number of correlating actions that occurred throughout NSW and Newcastle at that time and resulted in a substantial fall in assaults across the board.

However, the truth surrounding Newcastle has slowly emerged. The “outstanding results” that have been used to call for stringent measures to be imposed across all of NSW - and indeed Australia - have been shown to have been the result of deterring many thousands of young people from heading to Newcastle. Simple mathematic equations identify that the subsequent and easily predicted reduction in the number of incidents occurred because people who previously came from surrounding suburbs and regional centres, such as Maitland, Cessnock and the Central Coast chose not to go to the Newcastle CBD.

In March 2008, the Chair of the then Liquor Administration Board and Chief Licensing Magistrate imposed a series of conditions on 15 hotels late trading hotels in the Newcastle CBD (one was closed at the time), as the result of a disturbance complaint conference convened under s.104 of the then *Liquor Act 1982*. The disturbance complaint was originally lodged by police against four hotels by NSW Police, before being expanded to nine. The Chair then co-joined 14 licensed premises, all in the Newcastle CBD and all hotels. The conditions were draconian in nature and included;

- A 1.00am lockout (actually 1.30am consented by police following an appeal)
- A 3.00am close ( 3.30am after appeal)
- Drink restrictions after 10.00pm (No shots, no drinks over 30 ml alcohol, no RTDs over 5%, no more than four drinks in one transaction)
- No stockpiling of drinks
- Independent audits of alcohol management practices
- Sales of alcohol to cease 30 minutes before close
- Shared radio network

The restrictions effectively shut down the 2<sup>nd</sup> largest city in NSW after 3.00am, but without providing appropriate transport or policing services.

In preparation for the s.104 action, the then Director of Liquor and Gaming, OLGR submitted a ***Report of the Director of Liquor and Gaming – Newcastle*** for the Liquor Administration Board. That report included the following observations regarding Newcastle;

- Public transport was under-utilised
- Preloading increased the risk of heightened intoxication and crime levels
- Street drinking contributed to assault levels and antisocial behaviour
- Policing needed to be improved
- Fast-food outlets contributed to patron migration

The Director concluded the Executive Summary by stating two suggested strategies (1.00am lockout and 3.00am close) had merit, “provided stakeholders undertake a coordinated approach towards transport, security and police deployment”. History tells us the 14 hotels bore the brunt of the decision with no other “stakeholder” complying with the recommended actions.

#### **Impact of the Newcastle model on assaults – first 2 years**

- In the year to March 2008 there were 304 assaults in and around licenced premises in the Newcastle LGA.
- In the year to March 2009 there were 233 assaults in and around licenced premises in the Newcastle LGA – a fall of 23.4% on the 2008 figure
- In the year to March 2010 there were 282 assaults in and around licenced premises in the Newcastle LGA – an **increase of 21.0% on the 2009 figure**
- Two years after the introduction of the Newcastle Model, Newcastle lagged badly behind the reduction in assaults experienced in and around all licenced premises in NSW. (Newcastle LGA fell by 7.2%, all licenced premises in NSW fell by 18%).

It is important to note there were also a number of factors other than the measures imposed which may have contributed to the reduction in Newcastle; including amendments to the Liquor Act, publicity concerning the announcement of the ‘Top 100 hotels’, the formation of the Alcohol Licensing Enforcement Command, improved compliance by licensees and improved behaviour by patrons – which may have produced an increased focus on responsible practices and reduction in assaults.

The evidence, when studied continues to support the view that the Newcastle Model did not achieve the results in isolation, were not immediately sustainable and did not keep pace with the rest of NSW.

#### **Impact of Restrictions – Nightlife decimation**

For the 14 Newcastle premises, the cost of the extreme measures has been significant -

- One in four hospitality workers laid off,
- Hotel closures, receivership and changes in ownership.
- Sales revenue - Down 30.8% (NSW rose 2.7%)
- Asset value – Down \$22.5 million
- Workforce – Decrease by 21.7%
- Live music down by \$1million per year
- Food, entertainment etc all impacted

At that time also, across NSW only four venues remained on Tier One of the “Scheme to Regulate Violent Venues.” Disturbingly, two of the four were the remaining late traders in the Newcastle CBD, with another in Tier Two.

During this time the five remaining late trading venues made a proactive decision by voluntarily introducing ID scanning during the peak trading periods on Friday and Saturday night and a common barring policy, whereby persons misbehaving in one hotel are barred from all in the Newcastle Entertainment Precinct.

### **Impact on assault rates in Newcastle’s CBD after five years**

Five years on, Newcastle still trails the rest of NSW in terms of reductions in assaults experienced in and around all licenced premises.

Licensed premises assault rate changes March 2008 – March 2012

All NSW:	-30.0%
Campbelltown:	-42.7%
Gosford:	-37.7%
Wollongong:	-34.6%
Newcastle:	-25.3%

Figure Two  
Non Domestic Assaults in Licensed Premises 2008-2012  
- Newcastle compared to NSW (Source: BOCSAR)

### 5.3 Impact on licensed premises in Sydney CBD Precinct

It is too early to tell the full impact the measures introduced in February have had on licensed premises.

Unfortunately many venues have reported downturns in trade, which has resulted in the need to put off staff or cut back in shifts.

The decision to blanket measures across the Sydney CBD due to a series of incidents along a major public street in the area unfairly restricted the ability to do business and impacted all venues, not just those few doing the wrong thing, including those with no history at all of violence at their venues.



## 6. Possible further measures to reduce alcohol and drug-related violence

The AHA NSW submits that people should be able to go out at night, free from the fear of assault and anti-social behaviour. Strategies that reinforce personal responsibility coupled with measures that ensure the environment people are in is safe, whether inside venues or on the street, will assist this. The following strategies will make a difference;

### 6.1 Courts/legal system – tougher consequences

There are current provisions within the law to send a clear message to those who commit acts of violence or anti-social behaviour:

- Impose bail conditions for offenders for alcohol/drug fuelled assaults – not to enter licensed premises or designated entertainment precincts
- Impose Place Restriction Orders upon conviction under the Crimes (Sentencing Procedures) Act preventing them from entering licensed premises and precincts
- Expand the provisions of “Place Restrictions Orders” to allow a police officer of the rank of Superintendent or above to impose a place restriction order without a conviction for any offence, but based upon a reliable belief that a person may commit an act of violence or anti-social behaviour should the order not be imposed.

### 6.2 Education and training

- Development of Industry, OLGR and Police collaborated and delivered licensee and manager training
- More effective alcohol industry, police and security industry licensed premises alignment and training
- Enhanced school student education on responsibilities in/around licensed premises
- Public campaign aimed at young adults on the consequences of alcohol and drug-related violence

### 6.3 Policing

- Intelligence driven, high visibility policing of alcohol hot-spots
- Provide more clarity in the NSW Police User Pays Guidelines so precincts can pay for supplementary police during peak risk periods, just as sporting venues, festivals and racecourses do.

### 6.4 Better transport options

- Keep the trains running at night from Kings Cross, Town Hall and Central suburban transport hubs to ensure patrons can get out of the city quickly and safely. Currently on a Saturday night the last train is at 1.44am (to Central) – the first train is 5.14am
- Secure/ better signposted taxi ranks to ensure safety of passengers

### 6.5 Improved environment

- Better Lighting and CCTV

## 7. The effectiveness of measures taken to reduce alcohol and drug-related violence in other jurisdictions

"The 3.00am lockout is a complete, absolute 100 per cent failure from all of the data that we have been able to observe. I will just say that dogmatically. You can interrogate me at your will on that one, but I can defend that statement. It is what I regard as a politically attractive but completely ineffective strategy." Professor Ross Homel

Other jurisdictions have implemented holistic strategies recently that have not at this stage been properly evaluated, however, importantly they have involved consultation with stakeholders including the liquor industry.

There is currently NO evidence, national or international that lockouts have been proven as an effective measure in major cities.

A Law & Policy, University of Denver study of Fortitude Valley, Queensland identified that lockouts led to a reduction in on-premise assaults but had NO EFFECT on public space assaults. Kings Cross has a public space assault problem NOT an on-premise assault problem.

A NSW Parliamentary Library Research briefing compiled in November 2008 states..."In Victoria, a controversial 2.00am lockout was trialled between June and September 2008 and applied to designated trouble spots in Melbourne. Once concluded, the Victorian Government declined to extend the trial and has since announced that the policy has been abandoned altogether."

Following a similar trial in Queensland Professor Ross Homel; Foundation Professor of Criminology and Criminal Justice and Director of the Institute for Social and Behavioural Research at Griffith University in Brisbane emphatically told a Queensland Parliamentary Committee that...

"The 3.00am lockout is a complete, absolute 100 per cent failure from all of the data that we have been able to observe. I will just say that dogmatically. You can interrogate me at your will on that one, but I can defend that statement. It is what I regard as a politically attractive but completely ineffective strategy."

Even in Newcastle, NSW, Professor Kypros Kypri and others stated in 2010 that "In relation to the Newcastle intervention, further research is required to examine the effects of lockouts".

## **8. CONCLUSION**

The Legislative Assembly Committee on Law and Safety's *Inquiry into measures to reduce alcohol and drug-related violence* is an opportunity to examine the conditions imposed on premises in the Sydney CBD Precinct, and where no justification is found for their retention, recommend that the measures be removed or altered.

We welcome any further discussion you wish in relation to this issue, either by additional written submission or in person. Should you have any questions please do not hesitate to contact me on telephone [REDACTED] or email [REDACTED]

Kind Regards,

Mr John Green  
**Director, Policing, Regulations and Membership**  
**Australian Hotels Association NSW**

[REDACTED]  
[REDACTED]  
[REDACTED]