

**Submission  
No 35**

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

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

Thank you for the opportunity to provide a submission.

### **About me**

I have gained substantial practical knowledge and experience assisting and supporting various communities across NSW including Sydney, mobilise to stop primarily preventable alcohol related violence and associated criminal and non-criminal related harms in their locations.

This has involved substantial research and investigation into the best available peer reviewed independent scientific evidence that identifies and supports the most effective and cost saving measures to prevent alcohol fuelled violence. It also included a thorough understanding of the application, effectiveness and detail of the complex web of alcohol related planning, regulation and enforcement laws that crucially impact on the Inquiry's terms of reference from the community's perspective.

My experience includes

- Voluntarily leading the Newcastle community's representations in the 2007 s104 undue disturbance complaint initiated by the Police and joined by around 150 local community members that led to the landmark LAB decision to adopt precinct-wide enforceable modest reductions in late trading hours that have achieved internationally unprecedented positive results
- Supported many NSW communities in liquor related DA applications and liquor licensing related proceedings
- Chair both the Newcastle Hunter Region Community Drug Action Teams (CDATs)
- Engaged in meetings with a variety of NSW government Authorities to ensure local communities achieve greater genuine input into liquor related decisions that may impact upon their local communities and families
- Engaged with victims and grieving families who have lost loved ones from primarily preventable alcohol related harms.

## Terms of Reference

### **Rights of residents and families within the context of the dominant interests of the powerful liquor industry**

We note that the TOR do not specifically include the impact of the new conditions on local residents and the community.

For too long successive governments have ignored or only played lip service to local families' safety and amenity vis a vis the financial and other benefits accruing to the powerful liquor industry lobby and their patrons.

The recent NSW government's [response](#) to the recommendations of the Foggo review of the NSW Liquor Act is an example of a bias towards industry interests.

We invite the committee to specifically acknowledge and address the **precarious vulnerable position many local residents, families and the community** find themselves in when attempting to secure and assert their fundamental rights to the basic safety and amenity of the neighbourhood. Some of the issues or elements include:-

1. Families usually occupy their residents on a 24/7 basis. The vast majority of licensed premises impacted upon by the new welcomed conditions operate for much less time, but this smaller period of operations has a disproportionate negative impact on the quiet, good order and safety of the residents and the community
2. The majority of residents' and families' occupation of their premises, predates the initiation of the licensed premises' extended trading operations and the explosion in the relatively uncontrolled level of problematic liquor outlet density
3. The cumulative financial investment by residents in their residences (that can include "life savings") normally exceeds the level made by licensed premises. The NSW Liquor Act fails to acknowledge that community/families have higher financial interests (and more to lose) than the owners of licensed premises. We trust the committee will not make the same mistake
4. The interests of the community to be fairly heard in liquor related decisions impacting upon them including for example DAs and liquor licenses applications, undue disturbance complaints, law reforms, Plans of Management and Inquiries such as this; are significantly impeded by a number of resolvable factors including:-
  - a. The substantial imbalance between the liquor industry and the local community's ability to gain expert advice and support on the complex planning and liquor laws
  - b. Time and resources available to the industry compared with the community

- c. Various laws weighted heavily in favour of the industry eg rights to access various remedies and appeal decisions. This also includes an unfair burden of proof on the community to prove undue disturbance and harm
- d. Legal restraints preventing the Independent Liquor and Gaming Authority (ILGA) to intervene on its own initiative to intervene on a proactive basis to prevent harm across a whole precinct
- e. The nature of the non - transparent and appealable decisions by the Director General to not approve a precinct liquor accord requested by the Byron Bay [community](#) and supported by their council and police indicates for all other communities including those in Sydney, the practical difficulty of achieving harm prevention mentions prescribed in the Act.

The Director General's decision to prefer the unsubstantiated evidence of bottle shop owners over that of his own OLGR and a bevy of independent public health experts regarding liquor promotion guidelines also highlights the significant practical gulf between measures to reduce violence contained with the Act and the willingness of government to allow these to occur if it is not supported by the industry.

- 5. Local residents have been long subjected to intimidation, vilification and reprisals for attempting to speak out for their family's rights to a safe and orderly neighbourhood. Their personal details are immediately made available to licensees and premises subject to any complaint or objections. The community and police are aware of some concerning criminal connections between some licensed premises and the criminal underworld.
- 6. The community would appreciate the committee doing all it can to ensure that local residents and the community receive at least an equal level of genuine input, consultation and support on liquor related matters from the government, its various agencies and local government, as afforded liquor interests.

OLGR commits substantial resources promoting the liquor industry and facilitating and preparing resources for many liquor accords. There is substantial scope to substantially boost their support for local communities joining these processes on an equal footing.

An initial meeting between Sydney community representatives and senior OLGR officials was held in May 2014. Some financial support to the community to gain independent expert assistance would enhance and sustain this embryonic consultative process to also include City of Sydney representatives addressing alcohol harm prevention issues both in Sydney CBD and Kings Cross in a collaborative fashion.

## **Other dimensions of alcohol harm in addition to “violence”**

We encourage a less myopic approach to the dimensions of alcohol related harms.

A narrative has been fostered and promoted by the industry to minimise its scope of responsibility and attempt to switch all focus and blame of the dangerous oversupply and availability of their product (that they spend millions on promoting and normalising) onto the end consumers (or their parents) and governments

The committee should note that as we understand, the majority of alcohol related harms associated with the night economy is not related directly to violent incidents. It includes what is called as “unintended injuries” such as alcohol poisoning, trips, falls, traffic/pedestrian accidents, drowning and other misadventures.

This has a profound influence on the committee’s consideration of the relative costs, efficiency and effectiveness of various tested and untested existing and proposed measures to prevent violence especially if they address less than 50% of the known alcohol related harms occurring in these late trading drinking precincts.

It is important the form and extent of frank non-violent alcohol related incidents that can be linked to specific precincts and premises are equally recorded and evaluated to determine the overall cost and effectiveness of intervention measures to prevent **total alcohol related harms**.

It is clear in respect of these above non-criminal related incidents occurring in Sydney CBD and other “hotspots” across NSW that measures along the lines of reactive tougher/mandatory sentencing (only against alcohol consumers), more costly police, transport (that simply shift the problem of intoxicated patrons elsewhere) and other public services, are to some extent, a waste of scarce public resources. More proven and effective cost saving measures are available but not well utilised because of the possible influence of the liquor industry.

The committee should also be concerned with the incredible social impact, health and personal costs of well document longer term chronic harms (eg FASD, organ failure, cancers etc) associated with the dangerous oversupply and consumption of toxic levels of alcohol by young people (binge drinking) on frequent occasions that occurs before, during and after drinkers attend these popular nightspots.

We therefore encourage the committee to give greater weight to those proven cost saving measures based on the modest reductions in the availability and supply of alcohol (as advocated by the World Health Organisations and a number of other reputable and independent Australian public health organisations) including, trading hours, outlet density, price of alcohol, strength of alcohol, quantities of alcohol available for purchase etc.

It is really important that this inquiry severs the notion predominant amongst younger drinkers that you have to preload on dirt cheap grog and get really pissed to enjoy yourself. Equally, the committee should proscribe the notion that a “vibrant” night time economy consists of hordes of high intoxicated younger people crowding the

late trading licensed premises and streets vomiting, urinating, fighting and causing undue disturbances to the local residents.

Interestingly, the belief that enjoying yourself is synonymous with the necessary consumption of alcohol is propagated by the industry's *Drinkwise* promotion body with its latest "[How to drink properly](#)" campaign. OLGR is similar with its liquor promotion [guidelines](#) ([rewritten](#) by the liquor industry) including glossy pictures of all funky younger people consuming alcohol. We suggest it would be more responsible for the government and the liquor industry to depict some (not all) young people not consuming alcohol or drinking.

We must break this connection if we are to achieve the imperative of cultural change.

### **The "impact" of the new conditions**

The general consensus from a number of independent experts is that it is far too premature to draw any realistic and sustainable conclusions and thereby provide any conclusive police/law recommendations concerning the "impact" of the new conditions.

We encourage the inquiry to release all representations seeking the instigation of the inquiry and proposed terms of reference.

### **Learning from Newcastle NSW**

Our experience with the 2008 successful Newcastle intervention by the former Independent LAB is that it takes a reasonable period of time for patrons and owners of premises and the underpinning "culture" to adjust to the new safer conditions.

For example, the University of Newcastle surveyed the local community and young patrons of our licensed premises and found that 75% of patrons supported the new conditions as did 82% of the community. It is highly likely that a much smaller proportion of the young local Newcastle drinkers would have supported the intervention shortly after its instigation.

I can assure the committee that the vast bulk of Newcastle's residents and families strongly support and approval of and appreciate the sustained benefits of the 2008 modest reductions in late trading hours.

There is no practical reason why all other NSW communities and brave emergency workers afflicted as part of their "normal duties" with the consequences of alcohol fuelled non domestic violence and related harms, should not continue to be deprived of similar modest reductions (2 hrs) in late trading hours and a package of other evidence-based measures whether their current closing times be 5 or 3am.

We caution the committee to view with great scepticism any emotive suggestion from the industry and its patrons that the Newcastle conditions "have devastated Newcastle". This is clearly not true and while it did take some time to adjust, local late trading venue owners privately admitting to now being better off than before the intervention.

It estimated by the local health experts that well over 4,000 young people have been prevented from being the victims of an alcohol related assault in the CBD since the intervention. The committee cannot ignore or diminish the importance of this figure.

We now have a much safer and more diverse night economy in Newcastle with more licensed premises (including small bars and licensed restaurants). There also has been a very substantial reduction in police, health and council clean-up costs. These have never been recovered from those businesses profiting from the unsustainably high and dangerous levels of alcohol supplied to young binge drinkers.

The Newcastle conditions have shown it takes a reasonable period of time for licensed premises to adjust their business models. It differentiated the licensed premises into two categories

1. Those smart and responsible businesses that were prepared to adjust their business models and move away from binge/booze barn approach predicated on maximising the quantity and strength of alcohol supplied to their willing customers.
2. Those businesses unwilling or reluctant to change from the booze barn mentality and put all the blame back onto the government and police. These businesses are typically characterised by paying little attention to the quality/appearance of their premises and have low standards in which they are prepared to admit persons onto their premise. They usually do not last long – nor should they.

We respectfully encourage the committee to consider which above category prospective liquor industry submissions fall within.

In Newcastle, it is those smarter and responsible businesses with a preparedness to be innovative that have actually benefited from the necessity to adopt proven evidence based measures to prevent alcohol related violence.

It takes a reasonable period of time to change drinking supply and consumptions attitudes and “cultures”. There has been totally insufficient time in Sydney and Kings Cross to achieve this.

We rely upon the [submission](#) of Professor Peter Miller to the Review of the NSW Liquor Act that provides independent research backing for the most effective measures to prevent alcohol related harms.

We don't suggest that what has been achieved in Newcastle is perfect.

We still have some way to go with our assault and other incident rates still being above the state averages although according to police there has been over a 50% point to point reduction in assaults since the instigation of reduce trading hours. We equally must resist strong ongoing pressure to adopt costly band aid measures such as [CCTVs](#) paid for by taxpayers that have no proven alcohol harm **prevention** value

and supportive [evidence](#), as an alternative or substitute to further modest availability and supply reduction measures.

The cost of CCTV as a crime **detection** tool should be borne by the liquor industry and their customers, not the general public.

### **The equity and cost of alcohol related harms**

The totality of the public cost savings derived primarily from the modest reduction in last drink times has to be an important consideration of the Inquiry as to the question of “fairness and public equity”.

The Inquiry with respect, should consider the NSW Auditor General’s [report](#) of 2013 that the total public/social cost of the dangerous oversupply and consumption of alcohol in NSW is close to \$4 billion per annum. Why should most if not all of this incredible cost burden fall on the unsuspecting shoulders of ordinary NSW families who do not frequent these late trading drinking precincts to 3am – 5am in the mornings?

Unfortunately the Auditor’s report does not sufficiently identify the important **shared responsibility** of the liquor supply chain (production, promotion, supply and service) to shoulder its fair share of these high costs.

It is our understanding that the majority of alcohol related non-domestic violence is associated with only a very small proportion of NSW’s licensed premises. This harm is primarily associated with the operations, failed RSA and non-compliance issues with late trading (post- midnight) licensed premises that count for only around 4% of all NSW liquor licenses.

You cannot simply continuing to heap all the blame on impressionable and vulnerable younger people who from a very early age (5), values and attitudes towards the consumption of alcohol are shaped and partly determined by saturation TV and now [social media](#) liquor promotions.

The committee should explore these “upstream” areas to identify and recommended effective measures to prevent preloading, a major problem in Sydney and other late night drinking precincts.

### **Additional measures**

The single most effective and simple measure to immediately stop preloading would be an unobtrusive breath test as a condition of entry into high risk problematic premises.

We note that NSW law has recently made “intoxication” an aggravating factor in some offenses. Testing for intoxication prior to entry makes far more sense and would be an immeasurably superior method to reduce (prevent) violence.



Another key area for immediate improvement is the **ineffectiveness of key government sanctions, deterrence's** against recalcitrant licensed premise owners (not just licensees) and assessment tools.

The “3 strikes” scheme, violent premises lists and the OLGR EVAT system all fail to take account of and equally hold licensed premises partly accountable for the proximate linked conduct of their intoxicated patrons once they leave the premises.

The same schemes fail to reflect the majority of frank alcohol related harms that are not criminally related but in some cases can be linked to the oversupply of alcohol to patrons in specific venues (made easier with the assistance of ID scanners).

The venue's shared responsibility cannot be allowed to stop at the door, particularly if they have profited from allowing the patron to become intoxicated on their premises contrary to existing legal obligations.

The ILGA Byron Bay [Cheeky Monkeys](#) decision of 1 August 2014 highlighted the important use of Police COPS linking data to properly assess the magnitude of the consequences of failed RSA.

The committee must be mindful that the majority of alcohol related violence and related incidents by patrons actually occurs [outside](#) of the venue and secondly, a BOCSAR [survey](#) in Sydney showed more than 90% of young patrons admit to being served when exhibited three or more recognised signs of intoxication.

Current flip flop **NSW RSA laws**, guidelines and controls are completely inadequate as exemplified by the case where a former most violent premise in NSW successfully [defended](#) an RSA prosecution on the basis it provide 10 (hopefully large) pizzas to 750 patrons.

Failed RSA is arguably one of the biggest problems contributing to violence and other harms in these late night precincts. It has however, historically attracted the least attention by successive governments because of the undue power and influence of the liquor industry.

This will continue to cost more young lives and cause continuing irreparable harms if the government, society and industry continue to fail to confront the power imbalance that still puts the financial interests of the industry ahead of public and police safety.

Another key area requiring attention is the lack of transparency and opportunity for any community/resident input into venue applications to the Director General (now “Secretary”) to be **exempted** from the new Kings Cross and Sydney conditions.

The potential secret granting of exclusions by an apparent unaccountable senior public servant (under the direction of the Minister) runs the risk as apparently occurred in Melbourne, of undermining the effectiveness and community's confidence of the new measures. It also raises substantial integrity/probity issues.

It is not so much that premises can apply for such exemptions; it is the ongoing display of bias in the system against community and local resident interests,

openness and transparency that places them in a much inferior position to that of the industry.

The full details of all exemption applications must be made known to the public. This should include the liquor compliance record of the premise's owners and licensee, the nature and frequency of alcohol related incidents linked to the premises and the impact on the surrounding community.

Secondly, the public must be entitled to lodge informed submissions/objections to such applications.

Finally, the community should have an unencumbered right to appeal an approved exemption to the Independent Liquor and Gaming Authority (ILGA) for review with a stay on the exemption approval.

### **Conclusion**

We welcome the new measures.

We would be pleased to provide greater elaboration and further information to assist this important Inquiry on request.

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