

**Submission  
No 231**

## **SYDNEY'S NIGHT TIME ECONOMY**

**Name:** Mr Seppy Pour

**Date Received:** 25 June 2019

30 June 2019

The Hon Natalie Ward MLC  
Chair  
Joint Select Committee on Sydney's night time economy  
Macquarie Street  
SYDNEY NSW 2000

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Dear Committee

**Re: Joint Select Committee on Sydney's night time economy**

1. Thank you for the opportunity to provide a submission as part of the Committee's inquiry and report on Sydney's night time economy (the Inquiry).

2. The specific Terms of Reference (the ToR) for the Inquiry are:

That the Committee inquire and report into Sydney's night time economy, including any measures required to:

- a) maintain and enhance community safety;
- b) maintain and enhance individual and community health outcomes;
- c) ensure existing regulatory arrangements in relation to individuals, businesses and other stakeholders, including Sydney's lockout laws, remain appropriately balanced;
- d) enhance Sydney's night time economy; and

any other directly relevant matters.

3. Following a summary of the existing regulatory arrangements, this submission deals with the following matters of relevance to the ToR:

- i. effect of the 1:30am lockout and 3am cessation on alcohol-related violence;
- ii. effect of the 1:30am lockout and 3am cessation on anti-social behaviour;
- iii. effect of the liquor license fee program on alcohol-related offences;
- iv. effect of the existing regulatory arrangements on CBD business;
- v. effect of the 1:30am lockout and 3am cessation on Sydney's reputation;
- vi. unintended consequences of the existing regulatory arrangements;
- vii. experiences in other Australian jurisdictions; and
- viii. non-regulatory approaches to addressing alcohol-related violence.

## Existing regulatory arrangements

4. The majority of the existing regulatory amendments which oversee Sydney's night time economy were introduced under the Liquor Amendment Act 2014 (2014 amendments).
5. The 2014 amendments introduced the following measures:
  - 1:30am lockout for venues within the lockout area;
  - 3am cessation of liquor sales in licensed premises in the lockout area;
  - increases to the penalties imposed under certain infringement notices;
  - state-wide 10pm cessation of takeaway liquor sales;
  - the annual liquor license fee program; and
  - a freeze on new liquor licenses in the lockout area,

the lockout area being the Sydney CBD Entertainment and Kings Cross precincts.

6. The measures included an exemption for venues that have poker machines installed. These venues may permit entrance to patrons on the condition that they do not serve alcohol past 1.30am and do not provide entertainment other than poker machines and background entertainment.
7. In addition to this exemption, Sydney's casino precincts was notably placed outside the geographical boundary of the lockout area.
8. The 2014 amendments also included a provision for an independent review of the 2014 amendments to be undertaken as soon as possible after the end of the period of two years following the date of assent to the amending Act (Liquor Law Review).
9. In 2016, former Justice of the High Court of Australia, the Hon Ian Callinan AC QC conducted the review.
10. Following the handing down of the final report of the Liquor Law Review, the lockout and cessation of alcohol sales for live music venues were extended from 1:30am to 2am and 3am to 3:30am, respectively, for a trial period of two years. The cessation of takeaway liquor sales was also amended to 11pm.<sup>1</sup> Since the Liquor Law Review, more than 20 venues have been granted this live entertainment extension.<sup>2</sup>

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<sup>1</sup> Liquor and Gaming NSW, *Overview of NSW Government reforms to liquor laws* (8 December 2016) <[https://www.liquorandgaming.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0011/202430/Fact-sheet\\_1\\_Overview-of-NSW-Government-reforms.pdf](https://www.liquorandgaming.nsw.gov.au/__data/assets/pdf_file/0011/202430/Fact-sheet_1_Overview-of-NSW-Government-reforms.pdf)>.

<sup>2</sup> Marissa Ciampi, '20 Kings Cross and CBD Venues Approved for Lockout 'Exemption'', *Concrete Playground* (10 July 2017) <<https://concreteplayground.com/sydney/arts-entertainment/culture/20-kings-cross-and-cbd-venues-approved-for-lockout-exemption>>.

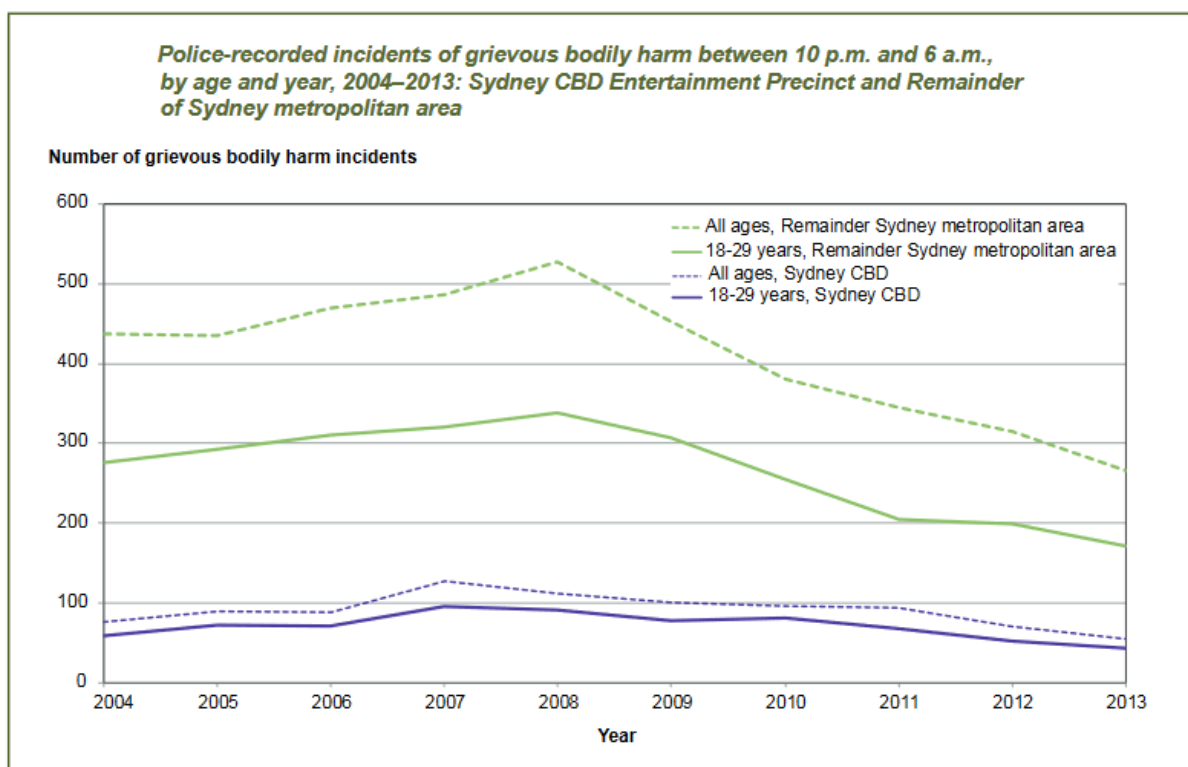
- Lockout exemptions were also given for the Oxford Street precinct and surrounding areas for Mardi Gras in 2018 and 2019.<sup>3</sup>

### Effect of the 1:30am lockout and 3am cessation on alcohol-related violence

- It is accepted that one of the objectives of the 2014 amendments is to reduce alcohol-related violence.<sup>4</sup>

#### Pre-2014 amendments

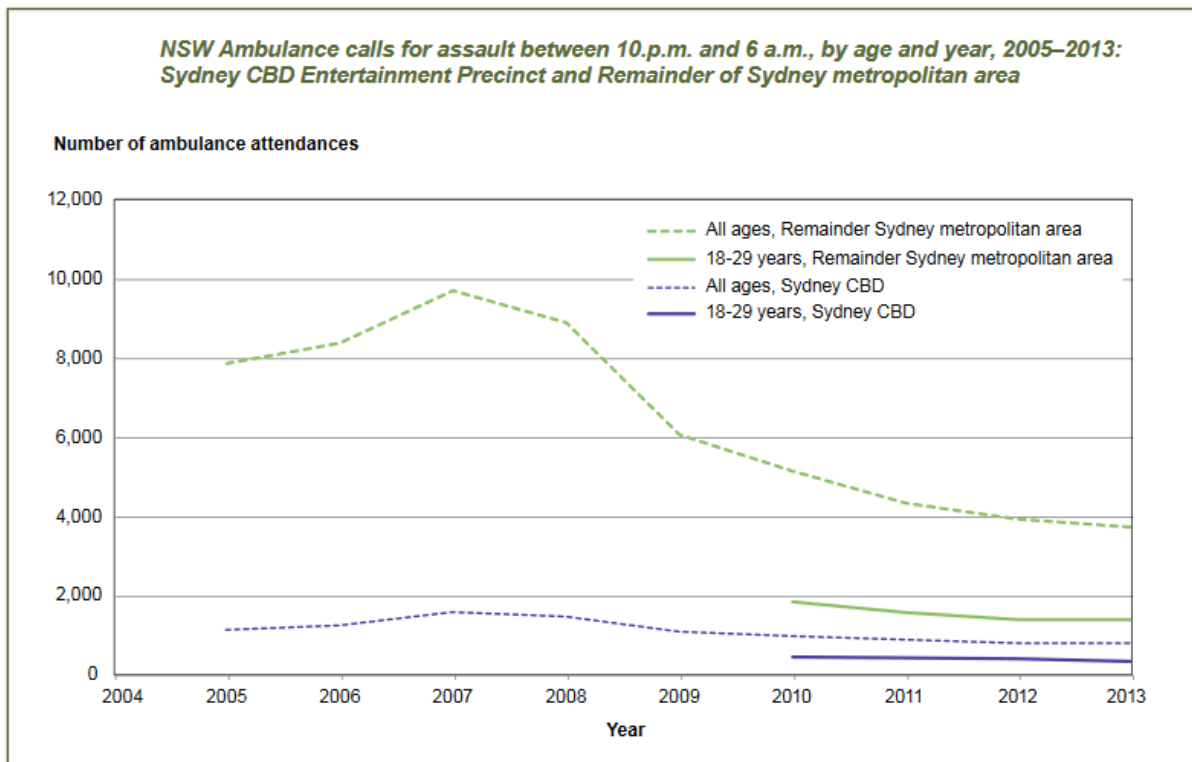
- Since the commencement of the 2014 amendments, public discussion of the efficacy of the 1:30am lockout and 3am cessation (the lockouts) have largely focussed on the fall in reported crime since their introduction.
- However, Bureau of Crime Statistics and Research (BOCSAR) findings conclusively demonstrate that a downward trend in alcohol-related assaults existed prior to the commencement of the lockouts.<sup>5</sup>



<sup>3</sup> Che-Marie Trigg, Sydney's Lockout Laws Will Be Relaxed for Mardi Gras, *Broadsheet* (27 February 2019) <<https://www.broadsheet.com.au/sydney/city-file/article/sydneys-lockout-laws-relaxed-mardi-gras>>.

<sup>4</sup> NSW Department of Justice Liquor Law Review, *Department's Background Paper* (21 March 2016) <<https://www.justice.nsw.gov.au/justicepolicy/Documents/background-paper-stat-review-lockouts-last-drinks-1.pdf>> [2.6.3], [2.7.1].

<sup>5</sup> Kit Leung et al. 'That's entertainment: Trends in late-night assaults and acute alcohol illness in Sydney's Entertainment Precinct' (Crime and Justice Bulletin No 185, Bureau of Crime Statistics and Research, 2015).



15. The figures above demonstrate that since 2008, police and ambulance records of late-night assaults in the CBD declined simultaneously. This suggests that, from 2008, there were changes in the night time economy that led to a decline in the number of incidents of late-night violence in the CBD.
16. In August 2013, the then Minister for Hospitality, the Hon George Souris MP, published a media release noting the "significant falls" in assault on licensed premises (8 per cent reduction from 2012 to 2013).<sup>6</sup>

#### From commencement to the Liquor Law Review

17. Prior to and during the Liquor Law Review in 2016, then Premier Mike Baird and other lockout law proponents cited the declining assault rates as proof of the success of the lockouts. At this stage, however, no causal link between the lockouts and the reduction of alcohol-related could be found.
18. An April 2015 report by BOCSAR concluded that although the lockouts appear to have reduced the incidence of assaults, no causal link to the consumption of alcohol or reduced pedestrian traffic could be found.<sup>7</sup>

<sup>6</sup> The Hon George Souris MP, Media Release, *BOCSAR Report Confirms Drop in Alcohol Related Assaults on Licensed Premises* (5 August 2013) <[https://www.justice.nsw.gov.au/Documents/Media%20Releases/olgr/2013/rel\\_20130805\\_BOCSAR\\_report.pdf](https://www.justice.nsw.gov.au/Documents/Media%20Releases/olgr/2013/rel_20130805_BOCSAR_report.pdf)>.

<sup>7</sup> Patricia Menendez, Don Weatherburn, Kypros Kypri and Jacqueline Fitzgerald, 'Lockouts and last drinks' (Crime and Justice Bulletin No 183, Bureau of Crime Statistics and Research, 2015).

19. BOCSAR later published findings in relation to the first 16 months of the lockouts. It showed a 45.1 per cent reduction in alcohol-related violence in the Kings Cross precinct and a 20.3 per cent reduction in the Sydney CBD Entertainment precinct.<sup>8</sup> At this stage, no significant change could be seen in the surrounding suburbs.<sup>9</sup>
20. Around the same time, however, The Guardian published an article based on BOCSAR's report which highlighted the spike in assaults recorded at Star Casino since the commencement of the lockouts.<sup>10</sup> It identified an 88.3 per cent increase in assaults in Pyrmont, attributable to the casino, between April 2014 and March 2015. The Casino itself had 20 assaults from April 2013 to March 2014, compared to 74 between April 2014 to March 2015 (370 per cent increase).<sup>11</sup> This finding was the first to suggest a displacement of assaults to an area outside the lockout area.
21. Shortly after these two publications, BOCSAR director Don Weatherburn publicly criticised Mr Baird's characterisation of the lockout laws as a success, citing his failure to take into account the existing downward trend which existed pre-2014.<sup>12</sup>

### Post Liquor Law Review

22. The most recent analysis of alcohol-related violence by BOCSAR published figures to September 2016 (the month in which the Liquor Law Review Report was released). It showed a 48.7 per cent drop in the Kings Cross precinct and a 12.6 per cent drop in the Sydney CBD Entertainment precinct during the 32-month, post-lockouts period.<sup>13</sup>
23. Significantly, this report was the first to demonstrate a displacement of assaults to areas surrounding the lockout area. Assaults in immediate surrounding suburbs saw an increase of 11.8 per cent following a consistent decline from 2009 to 2014.<sup>14</sup>

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<sup>8</sup> Bureau of Crime Statistics and Research, *Lockouts and Last Drinks* <[https://www.bocsar.nsw.gov.au/Pages/bocsar\\_news/Lockouts-Forthcoming-Research.aspx](https://www.bocsar.nsw.gov.au/Pages/bocsar_news/Lockouts-Forthcoming-Research.aspx)>.

<sup>9</sup> Ibid.

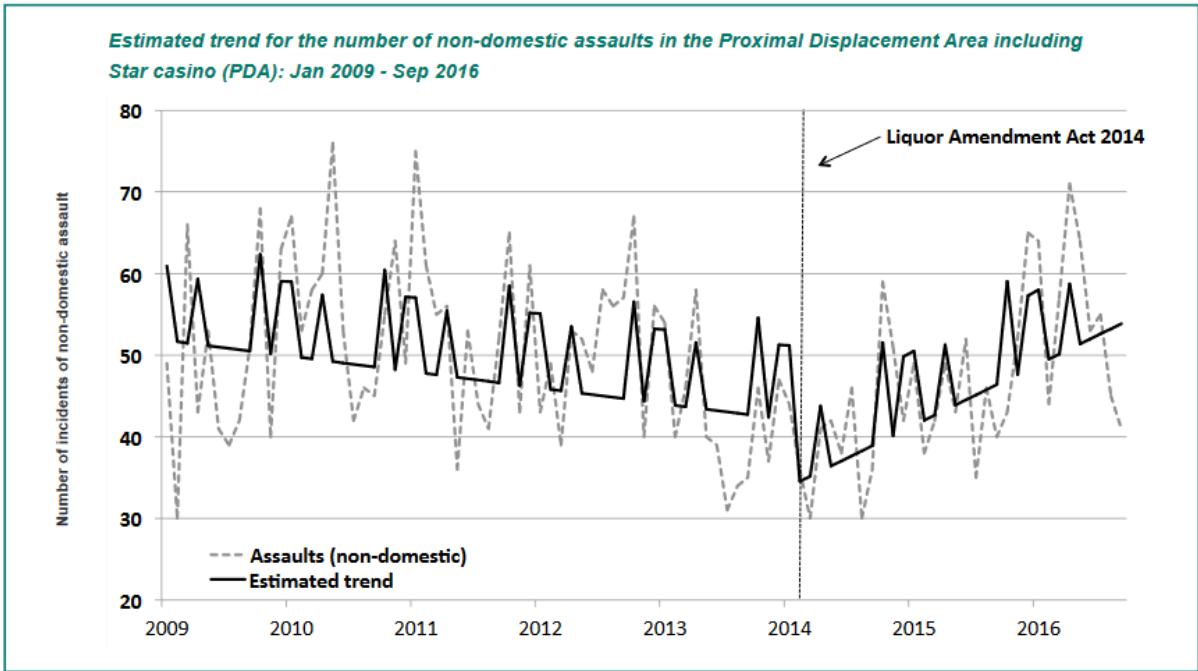
<sup>10</sup> Nick Evershed and Michael Safi, 'Spike in assaults recorded at Sydney casino following city's lockout laws', *The Guardian* (22 June 2015) <<https://www.theguardian.com/australia-news/datablog/2015/jun/22/spike-in-assaults-recorded-at-sydney-casino-following-citys-lockout-laws>>.

<sup>11</sup> Ibid.

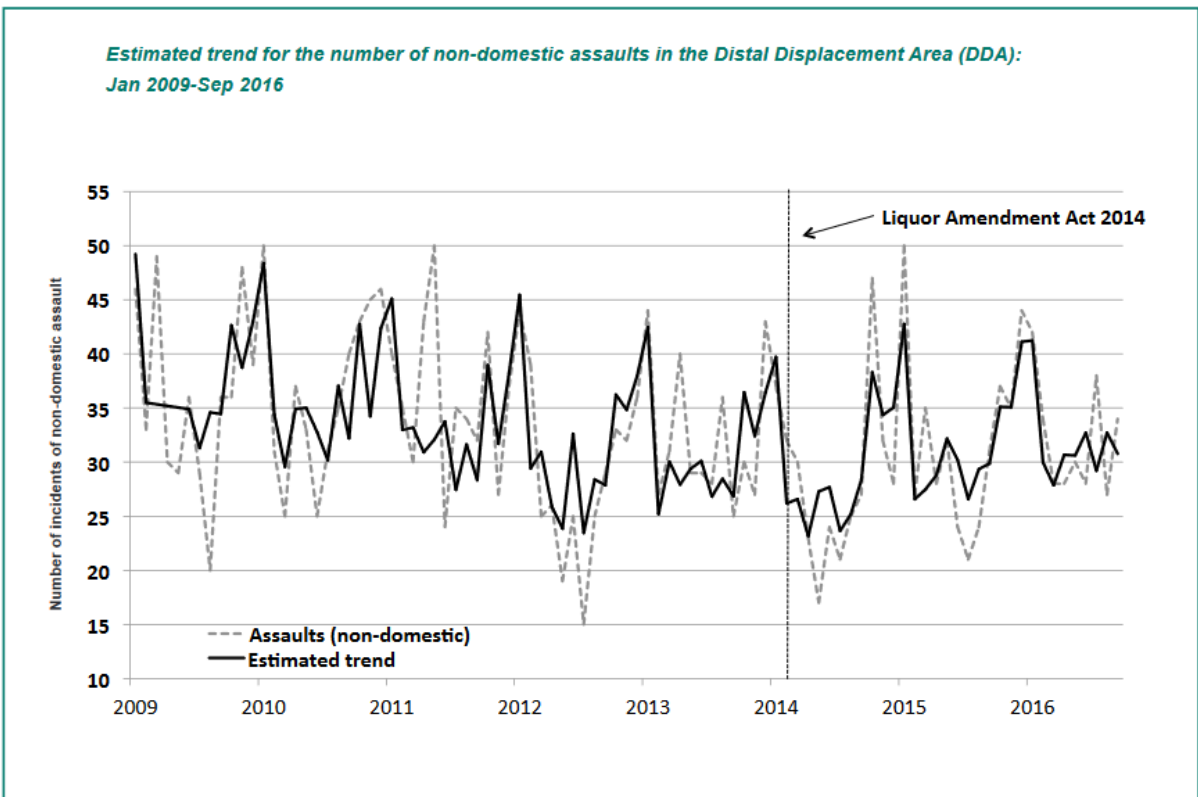
<sup>12</sup> Rachel Olding, 'Mike Baird using misleading stats to back Sydney's lockout laws: Weatherburn', *Sydney Morning Herald* (11 February 2016) <<https://www.smh.com.au/national/nsw/mike-baird-using-misleading-stats-to-back-sydneys-lockout-laws-weatherburn-20160210-gmq7bl.html>>.

<sup>13</sup> Niel Donnelly, Suzanne Poynton and Don Weatherburn, 'The effect of lockout and last drinks laws on non-domestic assaults in Sydney: An update to September 2016' (Crime and Justice Bulletin No 201, Bureau of Crime Statistics and Research, 2017).

<sup>14</sup> Namely, Pyrmont, Star Casino, Ultimo, Potts Point, Elizabeth Bay, Rushcutters Bay, and parts of Chippendale and Surry Hills.



24. Similarly, the group of four night life hotspots within easy reach of the lockout area (Newtown, Coogee, Bondi and Double Bay) suffered a 16.7 per cent increase in assaults since commencement of the lockouts.



25. This increase was not evident to the same extent across the rest of NSW over the same period.

26. This finding supports the heavily-quoted notion that alcohol-related violence would trickle over to nearby night life areas.<sup>15</sup> Assuming this trend continues, it would appear that the displacement took a period of transition to emerge, presumably as patrons discovered and developed a taste for alternate areas of night life (other than the casino, which already showed some signs of displacement by March 2015).
27. BOCSAR also noted that while the decline in alcohol-related assaults has continued to decline in the Kings Cross area (likely due to the closure of several high-profile venues), the same decline was not sustained in the Sydney CBD Entertainment precinct. While the reasons for this are inconclusive, it may be attributable to the difference in reduced pedestrian traffic in the two precincts (i.e. Kings Cross suffered a significantly greater loss, discussed below).

#### Relationship with pedestrian traffic

28. BOCSAR's figures accurately compare the number of assaults in a particular area before and after the 2014 amendments, taking into account any existing trends. However, they fail to take into account the significant decline in pedestrian traffic since the commencement of the lockouts. This means that they only speak to the drop in *total* assaults in the lockout area.
29. The City of Sydney's report on Sydney's night time economy showed a significant drop in pedestrian traffic on Friday and Saturday nights.
30. In the Kings Cross precinct, a comparison of Fridays between 2012 and 2015 saw a 58 per cent drop at 11pm and an 80 per cent drop at 4am.<sup>16</sup> In 2010, the Saturday Kings Cross count of pedestrians per hour peaked at 5,950. In 2015, the Saturday peak was just 3,888.<sup>17</sup>
31. The 2015 report also found that pedestrian traffic had increased in Newtown where there was an increase of over 200 per cent on Friday and Saturday nights.<sup>18</sup> This seems to have been a precursor to the displaced assaults discussed in paras [24]-[26].

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<sup>15</sup> See Caitlin Elizabeth Hughes and Alexander Shou Weedon-Newstead, 'Investigating displacement effects as a result of the Sydney, NSW alcohol lockout legislation' (2016) (25)5 *Drugs: Education, Prevention and Policy* 386.

<sup>16</sup> Aoife Boothroyd, 'Late night foot traffic continues to drop in Sydney CBD and surrounding precincts', *Hospitality Magazine* (3 February 2016).

<sup>17</sup> Nick Evershed, 'Sydney's lockout laws: five key facts about the city's alcohol debate', *The Guardian* (11 February 2016) <<https://www.theguardian.com/news/datablog/2016/feb/11/sydneys-lockout-laws-five-key-facts-about-the-citys-alcohol-debate>>.

<sup>18</sup> *Ibid.*



32. Around the same time as this displacement, the Sydney Morning Herald published an article which claimed that assaults had increased in Newtown (18 per cent), Petersham (375 per cent) and Glebe (31 per cent).<sup>19</sup> BOCSAR did not agree with these claims.

### Conclusion

33. Although more concrete evidence is required, it seems prima facie evident that alcohol-related violence has simply been displaced from the Sydney CBD Entertainment and Kings Cross precincts to surrounding suburbs and nearby night life hotspots.
34. As discussed, most of the decrease in alcohol-related assaults in the lockout area is attributable to the existing downward trend which is evinced prior to the commencement of the lockouts.
35. While early indications suggested that the lockouts had reduced alcohol-related assaults in the Sydney CBD Entertainment and Kings Cross precincts, more recent figures suggest an attenuation of the decline. Given the existing downward trend, it could even be argued, particularly in relation to the Sydney CBD Entertainment precinct, that assault rates have not declined.
36. Consider, for example, the fact that there was an 8 per cent decrease across the state between 2012 and 2013 (as noted in para [16]). Given the existing downward trend, one would expect to see a greater reduction in the Sydney CBD Entertainment precinct *over two years* between 2014 and 2016 than 12.6 per cent. Importantly, this is a reduction in *total* assaults.
37. Taking into account the reduction in pedestrian traffic, the actual reduction in alcohol-related assaults would either be minimal, net zero, or increasing on a per capita basis. Even where a minimal reduction can be found, it would likely be offset by the increase in surrounding suburbs and nearby night life hotspots.
38. Even in the case of the Kings Cross precinct (which has seen a 48.7 per cent reduction in assaults), the reduction is largely offset by the significant reduction in pedestrian traffic (in the vicinity of 58-80 per cent as per para [30]).
39. Accounting for the existing downward trend and the significant reduction in pedestrian traffic, it can only be concluded that the lockouts have failed in reducing alcohol-related violence. While most of the figures are yet to be corroborated, it is my submission that the lockouts should, to the extent that they are intended to reduce alcohol-related violence, be repealed.

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<sup>19</sup> Francesca Wallace and Michael Koziol, 'The new Kings Cross: lockout laws send revellers to Newtown', *Sydney Morning Herald* (21 June 2015) <<https://www.smh.com.au/national/nsw/newtown-gets-busy-as-kings-cross-empties-20150619-ghseco.html>>.

Recommendation 1a: Repeal the 1:30am lockout and the 3am cessation of liquor sales in licensed premises (and the equivalent for live entertainment venues). Alternatively, extend the 1:30am lockout to 3am and the 3am cessation to 4:30am for a 2-year period.

Recommendation 1b: Observe the effect of the changes on rates of alcohol-related violence in the lockout area, surrounding suburbs and nearby nightlife hotspots.

## **Effect of the 1:30am lockout and 3am cessation on anti-social behaviour**

### Definition of 'anti-social behaviour'

40. It is accepted that one of the objectives of the lockouts was, in addition to reducing alcohol-related violence, to reduce anti-social behaviour.<sup>20</sup>
41. It is my submission that the definition of 'anti-social behaviour' should be reviewed and amended. Currently, the definition is so broad that basic activities are included in its assessment.
42. For example, the City of Sydney's calculation of anti-social behaviour includes "incidents of singing and playing". Only the most conservative of individuals could possibly consider singing and playing to be anti-social behaviour.
43. 52 per cent of anti-social behaviour identified was considered to be 'non-serious'.<sup>21</sup> This is likely due to the unnecessarily broad definition of 'anti-social behaviour'.
44. Notwithstanding the unnecessarily broad definition, it cannot be said that the lockouts have reduced anti-social behaviour.
45. City of Sydney's 2015 report observed an 80 per cent reduction in anti-social behaviour at night between 2015 and 2010. However, a 64 per cent decrease had already been observed between 2010 and 2012 prior to the commencement of the lockouts.<sup>22</sup>
46. Like in the case of alcohol-related violence, this total reduction in anti-social behaviour would have to be considered in the context of the reduced pedestrian traffic and increases in surrounding suburbs and nearby night life hotspots.

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<sup>20</sup> NSW Department of Justice Liquor Law Review, *Department's Background Paper* (21 March 2016) <<https://www.justice.nsw.gov.au/justicepolicy/Documents/background-paper-stat-review-lockouts-last-drinks-1.pdf>> [2.6.3], [2.7.1].

<sup>21</sup> Aoife Boothroyd, 'Late night foot traffic continues to drop in Sydney CBD and surrounding precincts', *Hospitality Magazine* (3 February 2016).

<sup>22</sup> Liquor Law Review, *Keep Sydney Open Submission*, <<http://www.liquorlawreview.justice.nsw.gov.au/Documents/Submissions/Keep%20Sydney%20Open.pdf>>.

## Public order offences

47. An additional concern with the 2014 amendments in relation to anti-social behaviour is the increase in penalties imposed by an infringement notice for public order offences.
48. Under these changes, penalties for offensive conduct and offensive language were increased from \$200 to \$500;<sup>23</sup> disorderly conduct from \$200 to \$1,100.<sup>24</sup> The maximum penalty for disorderly conduct was also increased from \$660 to \$1650.<sup>25</sup>
49. This represents an infringement notice penalty to maximum penalty ratio of 76 per cent for offensive conduct/language and 73 per cent for disorderly conduct. The NSW Law Reform Commission recommends a 25 per cent ratio.<sup>26</sup>
50. It is well known that high punishments do not lead to a reduction in crime.<sup>27</sup> It is also well known that public order offences disproportionately affect Indigenous Australians.<sup>28</sup> While this is not a concern in the lockout area specifically, it must be noted that the changes to the *Summary Offences Act 1988* apply state-wide. They also have profound flow-on effects such as suspension of drivers license or being in default of a fine.

## Conclusion

51. The effect of the lockouts on anti-social behaviour is effectively the same as those on alcohol-related violence.
52. While more reliable figures will need to be gathered, the existing downtrend combined with the reduction in pedestrian traffic shows that the actual reduction in anti-social behaviour would either be minimal, net zero, or increasing on a per capita basis. Even where a minimal reduction can be found, it would likely be offset by the increase in surrounding suburbs and nearby night life hotspots.
53. It can only be concluded that the lockouts have failed in reducing anti-social behaviour. Accordingly, it is my submission that the lockouts should, to the extent that they are

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<sup>23</sup> *Summary Offences Act 1988* (NSW) ss 4, 4A.

<sup>24</sup> *Ibid* s 9.

<sup>25</sup> *Ibid*.

<sup>26</sup> New South Wales Law Reform Commission, *Penalty Notices*, Report No 132 (2012), Recommendation 4.5(a).

<sup>27</sup> Anna Patty, 'When it comes to crime, harsher punishment doesn't pay', *Sydney Morning Herald* (14 March 2012) <<https://www.smh.com.au/national/nsw/when-it-comes-to-crime-harsher-punishment-doesnt-pay-20120313-1uykb.html>>.

<sup>28</sup> Australian Human Rights Commission, *Submission to the United Nations Committee on the Rights of the Child for their Day of General Discussion on the Rights of Indigenous Children* (14 December 2012) <<https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/issue-3-law-and-public-order>>.

intended to reduce anti-social behaviour, be repealed or at least extended. This conclusion supports Recommendation 1.

54. Whether or not the lockouts are repealed or extended, it is my submission that the term 'anti-social behaviour' should be reviewed and amended to better align with reasonable standards.
55. Following the adoption of the new definition, changes in the rate of anti-social behaviour should be recorded. This should include rates of infringement notices issued, and convictions secured for offensive conduct, offensive language and disorderly behaviour.

Recommendation 2: Review the definition of 'anti-social behaviour' and consider amending to a definition which only includes established expected standards of behaviour, e.g. behaviour which is punishable or generally addressed under the *Summary Offences Act 1988*.

Recommendation 3: Reduce the penalty imposed by infringement notices to the pre-2014 amounts for offensive conduct/language and to \$400 for disorderly conduct (i.e. 25 per cent of the maximum penalty as recommended by the NSW Law Reform Commission).

### **Effect of the liquor license fee program on alcohol-related offences**

56. In addition to the lockouts, the 2014 amendments implemented a risk-based liquor licensing scheme for NSW venues. Every holder of a NSW liquor license is now required to pay an annual liquor license fee.
57. Based on a similar scheme utilised in the Australian Capital Territory, it is my submission that the liquor license fee program should be continued for large venues but repealed for small bars.
58. The ACT introduced risk-based licensing in 2010. The scheme took into account venue type, occupancy, and trading hours in determining licensing fees.
59. Since the introduction of the scheme, alcohol-related offences have declined significantly. Between May 2010 and December 2012, alcohol-related offences reduced by 25 per cent. In the following year, alcohol-related offences reduced by roughly 1 per cent, while non-alcohol-related offences increased by roughly 1 per cent.<sup>29</sup>

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<sup>29</sup> Foundation for Alcohol Research & Education, *Risk-based Licensing and Alcohol-Related Offences in the Australian Capital Territory* (December 2013) <<http://fare.org.au/wp-content/uploads/Risk-based-licensing-and-alcohol-related-offences-in-the-ACT-Final.pdf>>.

60. The Foundation of Alcohol Research & Education (FARE) found that licensees were in favour of the scheme.
61. FARE also observed no detrimental impacts on the liquor licensing market.<sup>30</sup> This means that the negative effects felt by CBD business as a result of the 2014 amendments (discussed in the next section) are unlikely to have been caused by the new liquor license fee program.
62. The liquor license fee program should, however, be repealed for small bars. Small bars are generally not the cause of significant alcohol-related violence or anti-social behaviour. Liquor and Gaming NSW's latest half-yearly violence venues list supports this.<sup>31</sup>
63. Small bars can be hit hard by the increase in licensing fees. For example, a small bar can be charged an additional ~\$5,000 for simply staying open beyond midnight more than six nights a year.

Recommendation 4: Continue the liquor license fee program for large venues. Data on its functions should be collected for analysis of its effects on alcohol-related offences and CBD business if/when the lockouts are repealed or extended.

Recommendation 5: Repeal the liquor license fee programs for small bars.

### **Effect of the existing regulatory arrangements on CBD business**

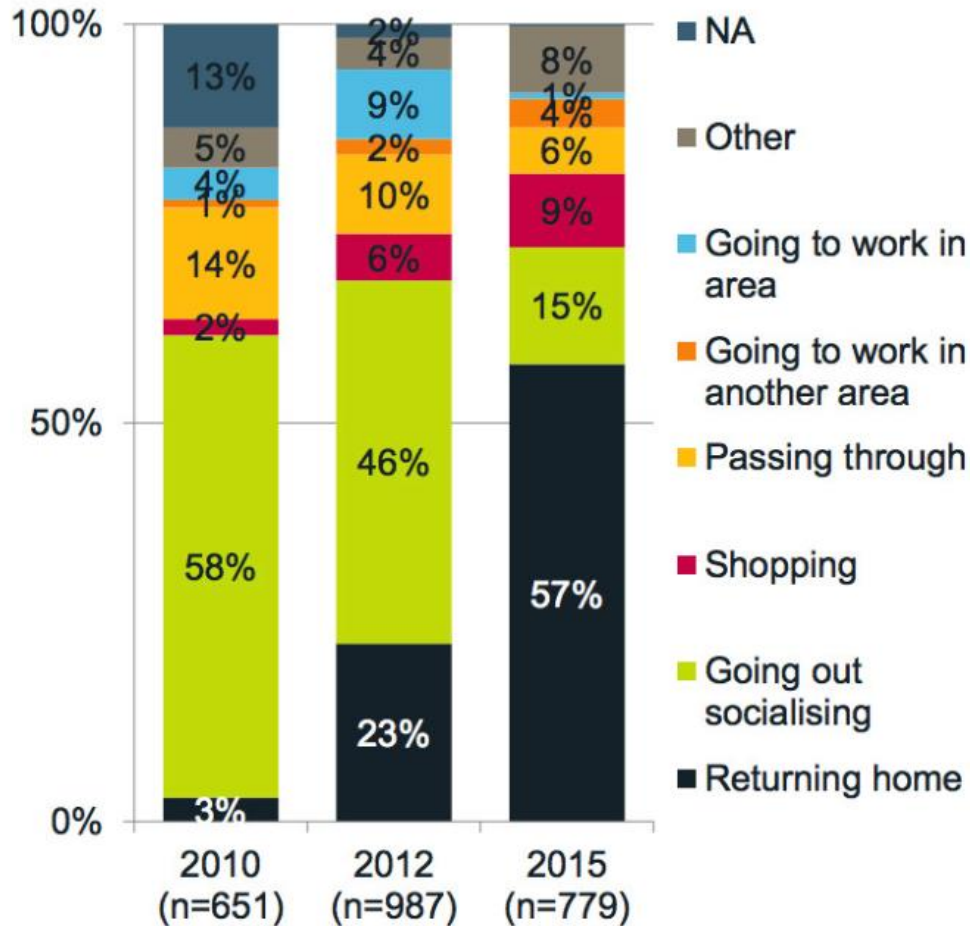
64. It is no secret that the lockouts have decimated CBD business. The inclusion of ToR (c) is a testament to this fact.
65. According to Liquor and Gaming NSW, 418 licensed premises had closed in the Sydney CBD Entertainment and Kings Cross precincts between 2014 and May 2018, while only 242 small bar and on premises licenses were granted. This is a net loss of 176 venues.<sup>32</sup>
66. The reduced number of venues is reflected in City of Sydney's 2015 report which shows the reasons to be in present in Sydney at night time.

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<sup>30</sup> Ibid.

<sup>31</sup> Liquor and Gaming NSW, *Latest violence venues list released – November 2018* (26 November 2018) <<https://www.liquorandgaming.nsw.gov.au/news-and-media/latest-violent-venues-list-released3>>.

<sup>32</sup> Andrew Taylor, 'What the hell is going on in Sydney?' 176 venues disappear', *Sydney Morning Herald* (27 May 2018) <<https://www.smh.com.au/national/nsw/what-the-hell-is-going-on-in-sydney-176-venues-disappear-20180527-p4zhst.html>>.



67. Between 2010 and 2015, the proportion of people in Sydney ‘going to work in the area’ reduced from 4 per cent to just 1 per cent, after peaking at 9 per cent in 2012.<sup>33</sup>
68. A 2019 Deloitte Access Economics report found that Sydney’s night time economy was underutilised to the tune of \$16 billion a year. The report noted that Sydney had the opportunity to develop its bar and live entertainment scene, arts and culture sector, retail offerings such as 24-hour gyms and supermarkets, and public transport.<sup>34</sup>
69. It should be noted that the negative effects of the lockouts extend to businesses other than licensed venues. Retailers such as convenience stores<sup>35</sup> and pharmacies<sup>36</sup> have experienced reduced turnover due to the significant reduction in pedestrian traffic. According to

<sup>33</sup> City of Sydney, Late Night Management Areas Research: Phase 4 Report (September 2015).

<sup>34</sup> Deloitte Access Economics, *ImagineSydney* <[https://content.deloitte.com.au/20180824-cit-inbound-imagine-sydney-2017-reg?\\_ga=2.173884129.33603707.1560926381-225126428.1560926381](https://content.deloitte.com.au/20180824-cit-inbound-imagine-sydney-2017-reg?_ga=2.173884129.33603707.1560926381-225126428.1560926381)>.

<sup>35</sup> Mark Pigott, ‘I will never forget the night the laws kicked in’, *Sydney Morning Herald* (4 December 2018) <<https://www.smh.com.au/national/nsw/i-will-never-forget-the-night-the-laws-kicked-in-20181129-p50j97.html>>.

<sup>36</sup> Adam Zuchetti, ‘Retailers caught in Sydney lockdown crossfire’, *mybusiness* (29 April 2016) <<https://www.mybusiness.com.au/sales/1630-retailers-caught-in-sydney-lockout-crossfire>>.

Freelancer.com CEO Matt Barrie, taxi revenue reduced by 40 per cent by 2016 due to the lockouts.<sup>37</sup>

## Conclusion

70. The economic viability of running a business in the Sydney night time economy, particularly a small business, has clearly diminished significantly since the commencement of the lockouts. The sheer volume of businesses that have closed their doors since the commencement of the lockouts illustrates this.
71. Whether this diminution was an unintended consequence or a calculated risk by the Government is not clear. At the time of the Harper Review into competition policy,<sup>38</sup> spokesperson for former Police Minister Troy Grant stated that the lockouts were “not anti-competitive, but rather pro-community”. This suggests that it was a calculated risk.<sup>39</sup>
72. In the case that it was an unintended consequence, the severity of its effects on the Sydney night time economy vehemently support the proposition that the lockouts should be repealed or at least extended.
73. In the case that it was a calculated risk, the Government should cut its losses and repeal the laws. The body of evidence on assault rates now shows that, at best, there has been a negligible reduction on a per capita basis. Furthermore, the assaults seem to have simply been displaced to surrounding suburbs or nearby night life hotspots (see paras [33]-[39]).
74. In either case, this conclusion supports Recommendation 1.

## **Effect of the 1:30am lockout and 3am cessation on Sydney’s reputation**

### Local reputation

75. The best representation of the effect of the lockouts on Sydney's local reputation are the results of The Socialites' 'The Sydney Lockout Survey' (the Survey).<sup>40</sup>
76. The Survey is an ideal basis of reflection because the respondent demographics matched that of the people who live in/visit the Sydney CBD. 85 per cent of respondents considered themselves 'locals'. 6 per cent were internationals. There was a total of 23,530 respondents.

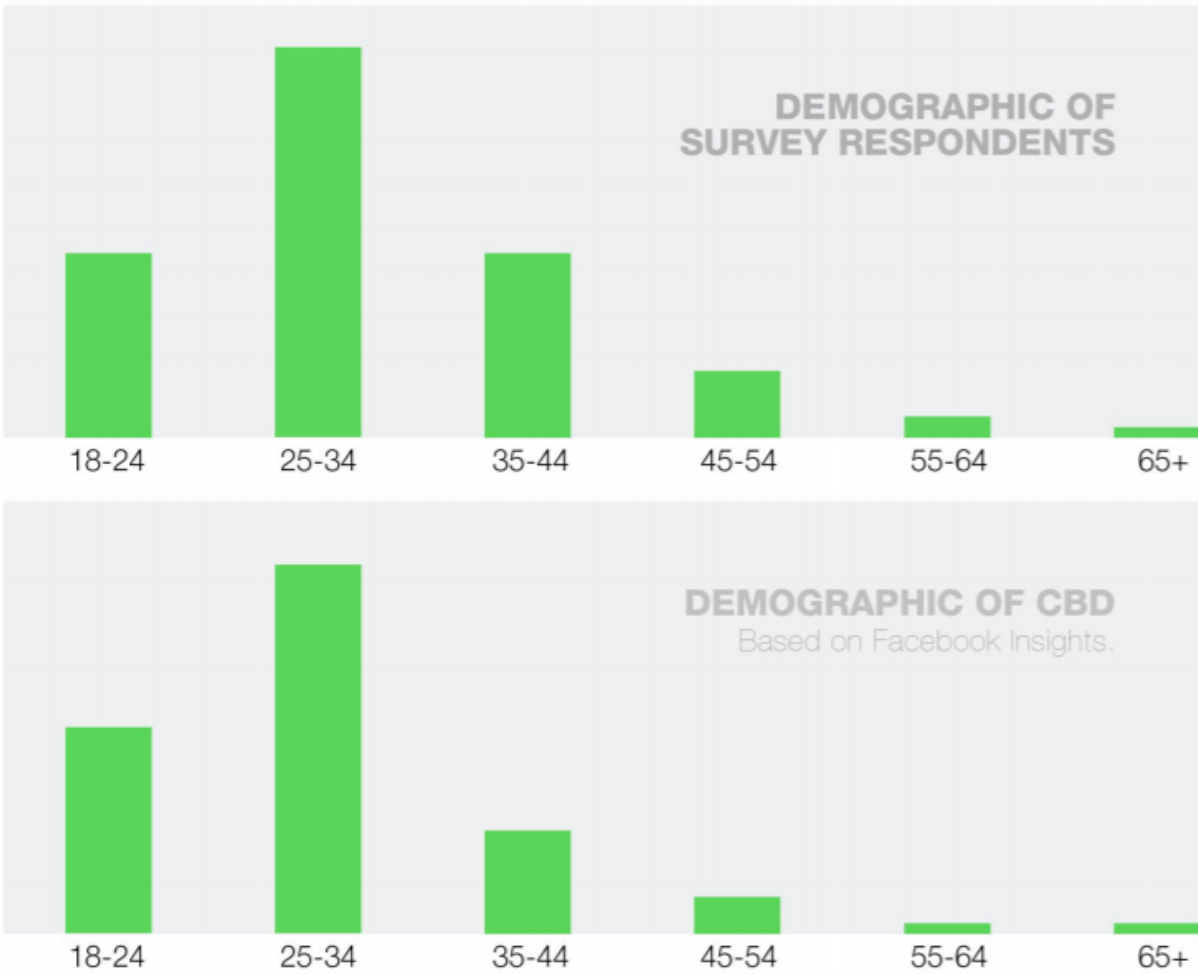
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<sup>37</sup> “Everything in Sydney is now illegal, including fun’: city entrepreneur’, *Yahoo7 News* (4 February 2016) <<https://au.finance.yahoo.com/news/everything-sydney-now-illegal-including-235658666.html>>.

<sup>38</sup> Australian Government, *Competition Policy Review* (31 March 2015) <<http://competitionpolicyreview.gov.au>>.

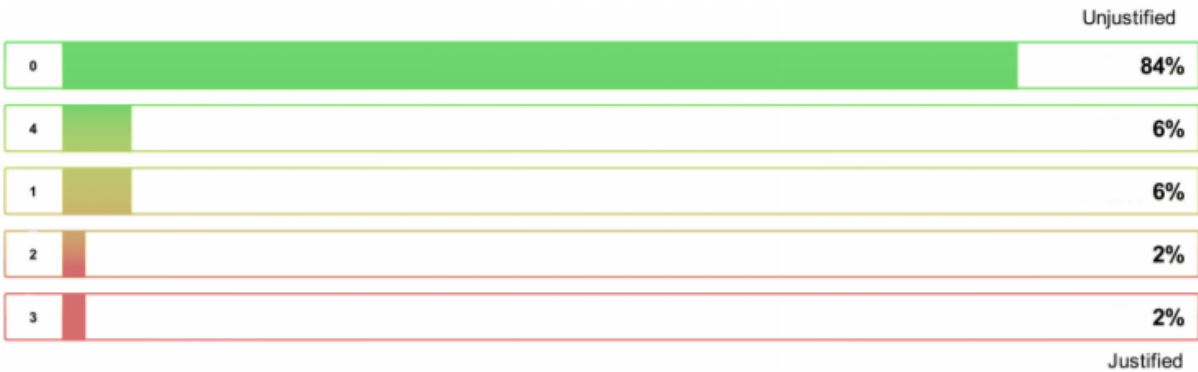
<sup>39</sup> Kirsty Needham, ‘NSW alcohol laws at risk in competition review’ *Sydney Morning Herald* (4 April 2015) <<https://www.smh.com.au/national/nsw/nsw-alcohol-laws-at-risk-in-competition-review-20150402-1mdvf4.html>>.

<sup>40</sup> The Socialites, *The Sydney Lockout Survey* <<https://thesocialites.net/TheSydneyLockoutSurveyReport.pdf>>.



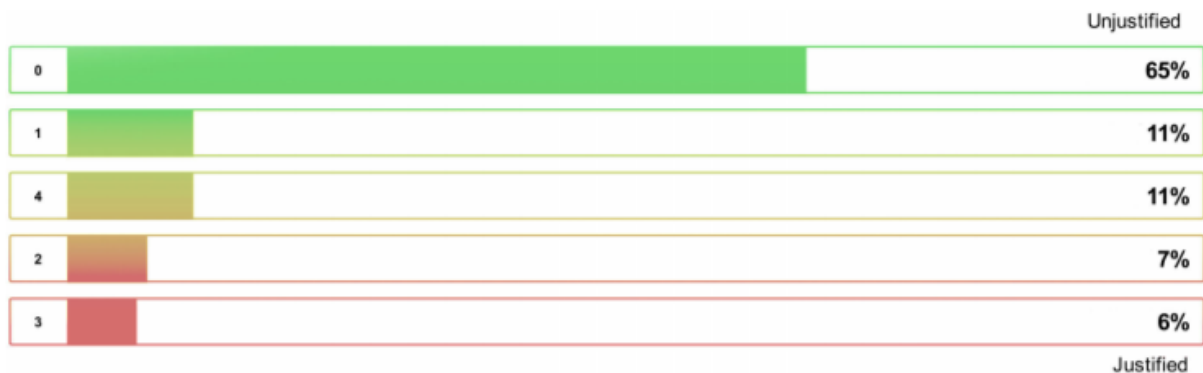
77. In fact, the Survey noted that the number of respondents who were 35 years of age and over exceeded the number of CBD residents/visitors of the same age group. This alleviates concerns of respondent bias, given the frequent accusation that only young people oppose the lockouts. Respondent demographics also offered a diverse mix of professions, relationship status, and education level.

78. In relation to the 1:30am lockout, 84 per cent of respondents found them wholly unjustified. Only 2 per cent found them to be wholly justified.

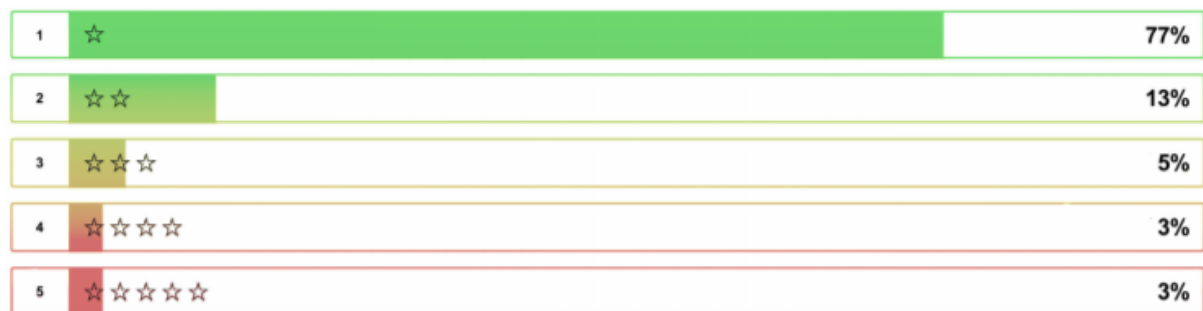




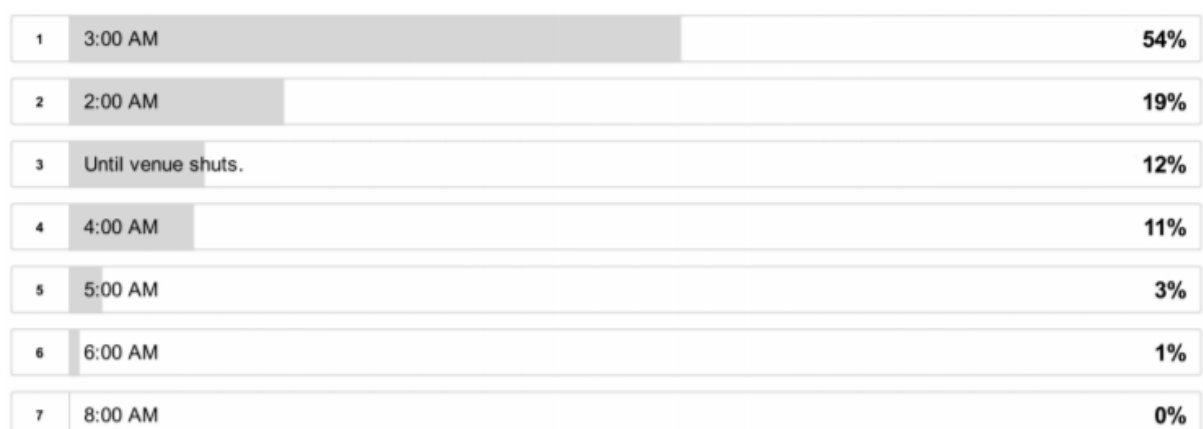
79. In relation to the 3am cessation, 65 per cent found them to be wholly unjustified. Only 6 per cent found them to be wholly justified.



80. When asked how well they considered the Government had handled the situation, 77 per cent responded with a 1/5 rating. Note that 0/5 was not an available option. The average response was a 1.43/5.



81. When asked what time lockouts should come into effect, 69 per cent responded that no limit would be appropriate. 24 per cent responded that lockouts should come into effect between 2am and 6am. Note that 'until the venue shuts' would effectively be the same as 'no limit'. 1 per cent thought lockouts should into effect earlier than 1:30am.



82. When asked when alcohol service should cease, 51 per cent responded that no limit would be appropriate. 26 per cent responded that cessation should come into effect between 4am

and 10am. Note that 'until venue shuts' would effectively be the same as 'no limit'. Only 2 per cent thought that cessation of service should occur earlier than 3am.

1	5:00 AM	40%
2	4:00 AM	31%
3	Until venue shuts.	15%
4	6:00 AM	11%
5	7:00 AM	1%
6	10:00 AM	1%

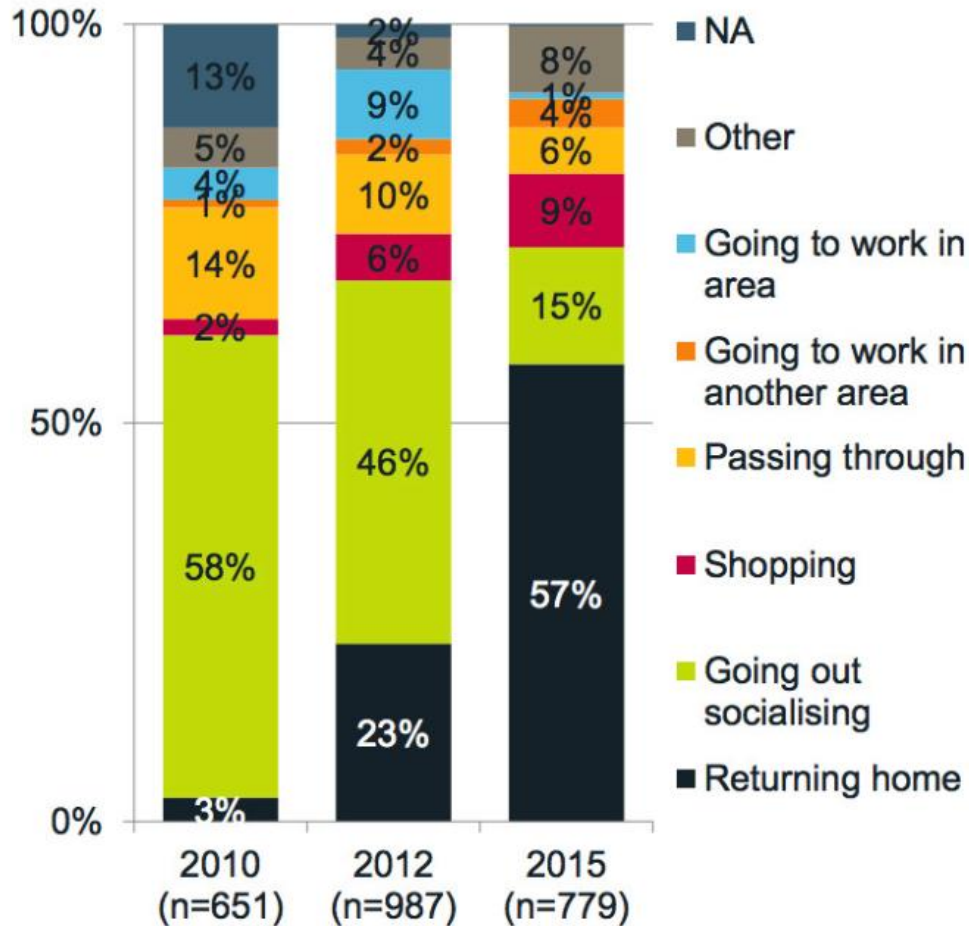
83. The results of the Survey show that people who live in and visit Sydney (i.e. the inner city) find the lockouts unjustified. They also find the Government's handling of the situation to be inadequate, likely due to the lack of evidence-based research and community consultation which went into the policy of the lockouts.
84. The Survey also shows that the majority of Sydneysiders want the 1:30am lockout repealed or at least extended to 3am. Similarly, they want cessation of service to be repealed or at least extended to 4am to 5am.
85. The results of the Survey also support Recommendation 1 of this submission which recommends the repeal of the lockouts, or alternatively the extension of lockout to 3am and cessation of service to 4:30am.

#### International reputation

86. As the City of Sydney's 2015 report shows, the majority of people in Sydney's night time economy are now literally returning home. Many others are simply passing through, with only a small fraction of people still going out socialising.<sup>41</sup>

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<sup>41</sup> City of Sydney, Late Night Management Areas Research: Phase 4 Report (September 2015).



87. As a result, many high-profile venues have closed their doors since the commencement of the lockouts in 2014. Some of these include:

- Bar Century
- Hugo’s Lounge
- Soho
- Barrio Chino
- Sapphire Lounge
- World Bar

88. Visitors have criticised Sydney’s modern night life, noting that:

- “3am is a really, really [early] time (to stop serving alcohol)”
- the lockouts were “very strict and extreme laws”
- “in the hostel, the party is better”
- backpackers staying in Kings Cross “tend to stay in and drink”.<sup>42</sup>

<sup>42</sup> Rohan Smith, ‘Backpackers share disappointment at Sydney night-life as victims’ families defend lockouts’, *news.com.au* (13 February 2016) <<https://www.news.com.au/national/nsw-act/backpackers-share->

89. Media outlets in the US<sup>43</sup> and UK<sup>44</sup> have also commented on Sydney’s “nanny state” actions and Kings Cross becoming a “dead zone”.
90. Importantly and ironically, hostel operators note that backpackers staying in hostels now enjoy “completely unregulated, unsupervised drinking” where they will “sit in a hostel... and get blatantly drunk”.<sup>45</sup>
91. Recent figures published by Tourism Australia show that the backpacker sector slowed by 3.8 per cent for visitors in the December 2018 quarter compared to the same period in 2017.<sup>46</sup>

### Conclusion

92. Member of this Committee, Alex Greenwich MP, commented last year that “it's tragic that to have a good weekend out, people are going to Melbourne rather than staying in our great global city that is Sydney.”<sup>47</sup>
93. There is no doubt that Sydney is still a global city. However, it would be accurate to say that its night life is now a joke. This is not only a wildly held opinion, but new research even shows that Sydney has the second earliest average closing times out of 30 major cities around the world.<sup>48</sup> Moreover, Sydney had the lowest percentage of venues still open at 12am.<sup>49</sup> It wouldn’t be a stretch to say that night life is effectively non-existent.
94. Tourists used to visit Sydney for its night life. This was because visitors would go home and spread the word of how great Sydney’s night life was.

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disappointment-at-sydney-nightlife-as-victims-families-defend-lockouts/news-story/a4a7d0ca20d3f6bce4030dce75e3d009>.

<sup>43</sup> Lauren Williams, ‘Sydney Wants to keep on partying, despite crackdown on alcohol abuse’, *USA Today* (23 February 2016) <<https://www.usatoday.com/story/news/world/2016/02/23/sydney-wants-keep-partying-despite-crackdown-alcohol-abuse/80756784/>>.

<sup>44</sup> Daniel Peters, “‘Out of touch group of suits!’ More than 20,000 take to Facebook to slam Sydney’s ‘nanny state’ lockdown laws – as Premier Mike Baird is accused of deleting social media posts that criticise his campaign’, *Daily Mail* (9 February 2016) <<https://www.dailymail.co.uk/news/article-3438577/Over-20-000-people-Sydney-Open-campaign-Facebook-vows-solutions-street-safety-WITHOUT-lockout-laws.html>>.

<sup>45</sup> Lauren Williams, ‘Sydney wants to keep on partying, despite crackdown on alcohol abuse’, *USA Today* (23 February 2016) <<https://www.usatoday.com/story/news/world/2016/02/23/sydney-wants-keep-partying-despite-crackdown-alcohol-abuse/80756784/>>.

<sup>46</sup> Tourism Research Australia, *Latest International Visitor Survey (IVS) Results*, (March 2019) <<https://www.tra.gov.au/International/international-tourism-results>>.

<sup>47</sup> Lisa Visentin, ‘Shooters push for repeal of CBD lockdown law’, *Sydney Morning Herald* (25 October 2018) <<https://www.smh.com.au/politics/nsw/shooters-push-for-repeal-of-cbd-lockout-law-20181025-p50btz.html>>.

<sup>48</sup> Ben Graham, ‘Sydney has the second earliest closing time out of 30 global cities, research shows’, *news.com.au* (14 December 2018) <<https://www.news.com.au/finance/business/other-industries/sydney-has-the-second-earliest-closing-time-out-of-30-global-cities-research-shows/news-story/4e24f326005d5827028b4e9dd6688113>>.

<sup>49</sup> *Ibid.*

95. Sydney's lockouts have now been in effect for five years. Tourists who have come to Sydney in that time have noted the disappointment caused by the restrictions. It won't be long before word spreads about how much of a 'dead zone' Sydney's night life has become.
96. This conclusion supports recommendation 1.

## **Unintended consequences of the existing regulatory arrangements**

### Gambling at the casino and added poker machines

97. As highlighted by the many opponents of the lockouts, Star Casino and Barangaroo casinos have been excluded from the lockouts.
98. The exclusion of Star Casino is peculiar given its high rate of assaults on premises. Barangaroo's exclusion is also odd as, if the lockout area is mapped out, it seems to have been specifically cut out or 'gerrymandered' out of the lockout area only to be landlocked by lockout-affected areas.
99. Member of this Committee, Alex Greenwich MP, commented last year that "it breaks [his] heart to see young people going out to the casino to have a night out."<sup>50</sup>
100. I reiterate his sadness and concern as the lockouts have had the effect of inorganically driving already-drunk patrons to the pokies or to the casino. This has fed into the perverse gambling culture in Sydney, in a country which already has the greatest number of electronic gaming machines per capita.<sup>51</sup>
101. This, of course, will contribute to the reality that 1 in 6 Australians who gamble regularly has a serious addiction and loses on average \$21,000 a year. It will contribute to the \$4.7 billion a year it costs the Australian community to address gambling related issues. It will contribute to the half a million estimated problem gamblers or at-risk gamblers in Australia.<sup>52</sup>

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<sup>50</sup> Lisa Visentin, 'Shooters push for repeal of CBD lockout law', *Sydney Morning Herald* (25 October 2018) <<https://www.smh.com.au/politics/nsw/shooters-push-for-repeal-of-cbd-lockout-law-20181025-p50btz.html>>.

<sup>51</sup> Martin Young and Francis Markham, 'Three charts on: Australia's addiction to poker machines', *The Conversation* (27 June 2017) <<http://theconversation.com/three-charts-on-australias-addiction-to-poker-machines-78353>>.

<sup>52</sup> Jason Scott and Michael Heath, 'Gambling is killing one Australian a day, but it rakes in billions in tax', *Sydney Morning Herald* (28 September 2016) <<https://www.smh.com.au/business/consumer-affairs/gambling-is-killing-one-australian-a-day-but-it-rakes-in-billions-in-tax-20160928-grpypl.html>>.

102. Most importantly, it will contribute to the 400 gambling-related suicides per year in Australia.<sup>53</sup> All of this to supposedly avoid a few alcohol-related deaths which would not have been prevented had the lockouts been in effect anyway.

### Jobs in the hospitality and music industries

103. Due to their link with CBD businesses, jobs in the hospitality and music industries have suffered greatly since the introduction of the lockouts. This has received significant media attention.

104. Although this is an important issue, it will not be discussed in this submission. This is because I believe that other submissions will articulate the problem better than I could and I do not wish to detract from those.

### **Experiences in other Australian jurisdictions**

#### Melbourne

105. Melbourne introduced a 2am lockout for a trial period in 2008.

106. A KPMG report commissioned by the then Victorian Premier found that there had been an increase in reports of violence during the lockout trial, including an increase in reported assaults between midnight and 2am. There was also an increase in assault-related ambulance trips between 8pm and midnight compared to those in the three months prior to the lockout.<sup>54</sup>

107. Accordingly, the Government did not proceed in implementing a permanent lockout.

108. The current Victorian Government stated in 2016 that lockout laws like those used in Sydney will not be introduced in Melbourne, citing the economic and cultural damage it would do to the city. The then Minister for Liquor Regulation, the Hon Jane Garrett MLC, said that previous attempts at a lockout in Melbourne were “a disaster for the fabric of our social and cultural identity”.<sup>55</sup>

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<sup>53</sup> Phil Mercer, ‘Australia’s escalating addiction to gambling’, *BBC News* <<https://www.bbc.com/news/world-australia-42362194>>.

<sup>54</sup> Reko Rennie, ‘Brumby dumps 2am lockout after increase in violence’, *Sydney Morning Herald* <<https://www.smh.com.au/national/brumby-dumps-2am-lockout-after-increase-in-violence-20081110-518w.html>>.

<sup>55</sup> Richard Willingham, ‘Victorian government says lockouts laws would destroy Melbourne’, *Sydney Morning Herald* (14 February 2016) <<https://www.smh.com.au/national/victoria/lockout-laws-would-destroy-melbourne-victorian-government-20160214-gmtppt.html>>.

109. Then Leader of the Opposition, Matthew Guy MP, echoed this sentiment, stating that the solution was to “punish the violent and not everyone else” and that he did not see any sense in “creating the ghost town that Sydney has become”.<sup>56</sup>

110. Melbourne has expressed its ambitions to be a 24-hour city.

### Queensland

111. Queensland introduced Australia’s toughest lockout laws in 2016. It imposed a 1am lockout, 2am cessation of service in licensed venues, and 10pm cessation of takeaway liquor sales.

112. Queensland’s lockout laws has this week been found to offer virtually no benefit in reducing violence, reducing consumption of alcohol, or reducing patrons fear of being involved in an altercation.<sup>57</sup>

113. Researchers from the University of Queensland, Griffith University and Queensland University of Technology found that people entering night life areas were considerably drunker and arrived much later, consumed no less alcohol and were more likely to have also taken drugs at home.<sup>58</sup>

114. Unsurprisingly, there was no reduction in violent assaults or people’s fear of being assaulted. Crime statistics and patrons’ self-reported experiences of violence showed no change since Queensland’s lockouts were introduced.

### Conclusion

115. The NSW Government should have learned from the 2008 lockout trial in Melbourne that blanket lockout laws were not the answer to alcohol-fuelled violence. Having failed that, it should have significantly rolled back the scheme following the 2016 Liquor Law Review. Again, it failed to do so.

116. The new findings in relation to Queensland’s lockout laws lend even further credence to the inefficacy of lockouts laws in addressing alcohol-fuelled violence. This is despite Queensland’s restrictions being considerably stricter than Sydney’s.

117. Given these findings, it is again my submission to this Committee that the lockouts be repealed or at least extended as per Recommendation 1.

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<sup>56</sup> Ibid.

<sup>57</sup> Shannon Molloy, ‘The damning verdict on lockout laws from extensive long-term research’ *news.com.au* (19 June 2019) <<https://www.news.com.au/national/the-damning-verdict-on-lockout-laws-from-extensive-longterm-research/news-story/5f90965eca08189dceec0b310e183a63c>>.

<sup>58</sup> Ibid.

## Non-regulatory approaches to addressing alcohol-related violence

### Public transport

118. Poor late night transport options can contribute significantly to alcohol-related violence. This is why other major cities such as Melbourne, Berlin, New York and London offer 24-hour public transport services.
119. Inability to access transport means people are required to spend longer in the city after venues close. This leads to frustration and competition for limited transport services. Potential for violence can increase under these conditions. This submission does not consider the impact of this scenario on road traffic incidents, although it does recognise them as another concern.
120. Modelling undertaken by the Burnet Institute found that a two-hour extension on public transport is likely to be more effective in reducing verbal aggression and consumption-related harms than a lockout.<sup>59</sup>
121. City of Sydney also supports this submission. City of Sydney previously organised a Late Night Transport Working Group focusing on improving accessibility and safety of late-night transport in the city. This working group has been successful in establishing new secure taxi ranks staffed by security in late-night trading areas to enhance safety and ensure patrons can leave the vicinity of a venue promptly upon leaving.<sup>60</sup>
122. 92 per cent of respondents to the Survey opined that transport should run all night.<sup>61</sup>
123. Sydney has historically suffered issues with late night transport, largely caused by the 3am taxi changeover.<sup>62</sup> It makes no sense to impose cessation of service at this time, causing patrons to leave in bulk when taxi resources are rare and likely to cause frustration.
124. City of Sydney has previously recommended that train services be extended on Friday and Saturday nights to operate after closing time to get people home quickly and safely.<sup>63</sup> I reiterate this recommendation.

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<sup>59</sup> Nick Scott et al., 'The effects of extended public transport operating hours and venue lockout policies on drinking-related harms in Melbourne, Australia: Results from SimDrink, an agent-based simulation model' (2016) 32 *International Journal of Drug Policy* 44.

<sup>60</sup> Liquor Law Review, *City of Sydney Council Submission* <<http://www.liquorlawreview.justice.nsw.gov.au/Documents/Submissions/City%20of%20Sydney.pdf>>.

<sup>61</sup> The Socialites, *The Sydney Lockout Survey* <<https://thesocialites.net/TheSydneyLockoutSurveyReport.pdf>>.

<sup>62</sup> Joseph Tovey, 'Council tackles 3am taxi drought to save city nightlife', *Sydney Morning Herald* <<https://www.smh.com.au/national/nsw/council-tackles-3am-taxi-drought-to-save-city-nightlife-20120629-2181w.html>>.

<sup>63</sup> Liquor Law Review, *City of Sydney Council Submission* <<http://www.liquorlawreview.justice.nsw.gov.au/Documents/Submissions/City%20of%20Sydney.pdf>>, Recommendation 26.



Recommendation 6: Increase the availability of late night taxis, buses and trains to areas which do not currently have late night public transport options, with a particular focus on areas that are expensive to reach with alternate transport options such as Uber.

### Late night food

125. The availability of late night food could offer an efficient and safe way to reduce alcohol-fuelled violence. The approach has been used in other jurisdictions to curb alcohol-fuelled domestic violence based on medical evidence which strongly suggests that eating after drinking helps induce sleep.<sup>64</sup>

126. Empirical evidence shows that high-fat, high-carbohydrate food can have a satiating, fulfilling effect on late night revellers.<sup>65</sup> This has been my personal experience as well.

Recommendation 7: Encourage the trading of late night hot food venues, particularly in areas with a high density of licensed venues and minimal hot food options. Provide incentives for late night trading of such venues, such as reduced trading fees.

### **Conclusion**

127. In this submission, I have made it abundantly clear that I support the repeal or at least extension of the lockout laws. More generally, I have expressed my opposition to the existing regulatory arrangements, predominantly because of their failure to address alcohol-fuelled violence or anti-social behaviour, along with the myriad of unintended consequences that they have had.

128. Since the 2016 Liquor Law Review, further evidence from BOCSAR has reiterated the suspicion that assaults have simply been displaced to surrounding suburbs and nearby night life hotspots. This is bolstered by findings released this week which showed no positive effects stemmed from Queensland's introduction of lockout laws, despite being stricter than Sydney's.

129. The unintended consequences discussed provide a further basis for criticism of the existing regulatory arrangements. Effects on CBD business, gambling rates, and Sydney's local and international reputations are matters of great importance.

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<sup>64</sup> 'Kebabs 'help prevent abuse'', *Herald Scotland* (28 August 2014)

<<http://www.heraldsotland.com/news/home-news/kebabs-help-prevent-abuse.25168280>>.

<sup>65</sup> Kimberly Bazar, Joon Yun and Patrick Lee, 'Debunking a myth: neurohormonal and vagal modulation of sleep centers, not redistribution of blood flow, may account for postprandial somnolence' (2004) 63(5) *Medical Hypotheses* 778.

130.To this end, I will conclude by restating the overall failure of the existing regulatory arrangements. They have not improved community health or safety outcomes, enhanced Sydney's night time economy, or had a positive effect on any stakeholders (except maybe the casino and poker machine operators).

131.Given their abject failure in achieving any of their stated outcomes, it is my strenuous submission that the existing regulatory arrangements be wound back, and non-regulatory approaches be considered as a way of addressing alcohol-related violence and anti-social behaviour.

Please feel free to contact me should you require any further information.

Sincerely

Seppy Pour