

**Submission
No 461**

SYDNEY'S NIGHT TIME ECONOMY

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NDARC and FASS submission into the Joint Select Committee on Sydney's night-time economy

We welcome the opportunity to contribute to the Committee's inquiry into Sydney's night-time economy (NTE), 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 NTE.

The following is a joint submission from the Faculty of Arts and Social Sciences (FASS) and the National Drug and Alcohol Research Centre (NDARC), Faculty of Medicine at the University of New South Wales (UNSW). Academic contributors to this submission include:

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1.) Non-domestic assault, hospitalisations and other nightlife-related harm

The NTE is associated with many harms, with the two most salient being non-domestic assault and hospitalisation for alcohol and other drug-related injury and intoxication. Reducing such harm is of self-evident importance and was the stated rationale for the introduction of the Plan of Management for the Sydney CBD Entertainment Precinct in 2014. Research has demonstrated that current regulation governing Sydney's NTE has led to significant and ongoing reductions in recorded levels of non-domestic assaults within the designated precincts (Donnelly, Poynton and Weatherburn, 2017; Menendez, Kypri and Weatherburn, 2017; Hughes and Weedon-Newstead, 2018), as well as reduced hospitalisations for alcohol-related injuries (Fulde et al 2015; Atkinson 2018; Holmes et al 2018). However, evidence also shows displaced assaultive crime to proximal and distal sites (including Pyrmont Newtown,

Bondi and Double Bay) (Donnelly et al, 2016; Donnelly, Poynton and Weatherburn, 2017). While the marked reduction in assaults in Kings Cross and Sydney CBD is seen as a net gain relative to the decreases in non-domestic assaults in proximal and distal suburbs, Donnelly, Poynton and Weatherburn's (2017) report suggests that it "cannot be assumed" that the initial reductions in the lockout areas could or would be maintained in the long term.

Research from Hughes and Weedon-Newstead (2018) has also highlighted the importance of considering multiple possible impacts from any interventions in Sydney's NTE. This research highlighted that while there had been a significant and ongoing reduction in recorded incidents of alcohol-related assaultive crime in the designated lock-out precincts, there were consequent displacements effects in peripheral nightlife precincts, most notably Newtown, where perceptions of safety and inclusivity were adversely impacted by the lock-out restrictions. These impacts were particularly pronounced for GLBTQI populations who noted increased experiences of discrimination, harassment and violence due to a shifting patronage in Newtown (Hughes and Weedon-Newstead, 2018).

One of the issues with assessing the impact of the regulations is that they were all introduced within a short period of time and in the same locations. Consequently, it is difficult to attribute positive outcomes with individual regulatory instruments. That said, research from NSW BOCSAR suggests that the benefit of current regulations (reduced violence) is likely to be the result of early closing (and cessation) not the lock-out restrictions (Donnelly, Poynton and Weatherburn, 2017).

2.) Nightlife vibrancy and patronage

Nightlife 'vibrancy' has diverse meanings, from a general atmosphere of liveliness and fun to the health of an economy, culture or subculture. In the context of Sydney's current debates around nightlife, one of the most prominent discussions has been around declining patronage in key nightlife precincts impacted by the lock-out laws and the way in which shifting nightlife patronage has affected other nightlife sites outside of the city centre. While post-lockout pedestrian counts in the designated lock-out zones have varied in number and quality, the range indicates a significant and ongoing decline in foot traffic to the effect of 42-49% (City of Sydney (City of Sydney Council, 2010; 2019). Counts from 2015 showed a reduction of 42-49% at peak times during the weekend between 2010 report and the latest 2017 figures from CoS. Research is needed to understand the full impact of these changes, but multiple indicators suggest that the changing levels of patronage may have impacted on the vibrancy of Sydney's night-time economy (Hughes and Weedon-Newstead, 2018).

However, it is good to see the City of Sydney and other Sydney locations developing policies around the establishment of safe and inclusive nightlife (including Parramatta City Council, Randwick City Council etc) to improve the number and diversity of night-time leisure options available across the city. Diversifying nightlife options later at night, including a less exclusive reliance on alco-leisure, is likely to produce a more vibrant, safe and attractive night-time economy in Sydney.

3.) Policing and the use of drug detection dogs

One of the major challenges in balancing safety and vibrancy in nightlife settings is the ongoing management of harmful or risky patron alcohol and other drug (AOD) use. Long standing evidence indicates high- level illicit drug consumption in Sydney's night-time economy. For example, in a pre-lockout national study of AOD consumption and related harm, Miller et al (2013) found that Sydney had the highest level of ecstasy consumption. Recent wastewater analysis (Australian Criminal Intelligence Commission, 2019) also found that Sydney rates of cocaine consumption double than that of Melbourne and Brisbane. A recent Australian drug trends report (EDRS, 2018) also showed that young drug users are shifting towards higher purity ecstasy, reaching its highest levels of use since monitoring began in 2013. That said, it is vital in any assessment of harms in the NTE to focus on harmful drug consumption, noting that that the vast majority of illicit use carries little or no harms and that alcohol is the drug associated with the greatest harms to public health and safety (Nutt et al, 2010).

The high level of illicit drug use (even if low risk) has led to high rates of policing of the NTE. While the policing of drugs employs a wide range of strategies, of particular relevance to discussions regarding the safety and vibrancy of nightlife is the use of drug detection dogs. NSW was the first Australian state to introduce drug detection dogs as a street-level policing strategy with the stated aim of 'targeting drug supply' and 'attacking the root causes of drugs in society' (Lancaster, Hughes and Ritter, 2017). Yet there has remained a long history of concern about their deployment with a new comprehensive analysis of the program finding that the program overwhelmingly detects young people for 'use/possession' alone (86.4% of incidents), with supply offences only detected in 4.8% of incidents (Agnew-Pauley and Hughes, 2019).

In this analysis (spanning all recorded criminal incidents and persons of interest (POIs) involving drug detection dogs that led to a formal police response in NSW from June 2008 to June 2018) most detections by drug dogs in NSW were for cannabis (59.0%) or MDMA (18.1%), compared to 7.9% for methamphetamine (Agnew-Pauley and Hughes, 2019); this is

in large part a consequence of where the drug detection dogs are deployed, as most detections are at public settings, particularly public transport (28.2%), licensed premises (27.5%) and outdoor/public places (27.6%), which are the settings where suppliers are least likely to be detected (Agnew-Pauley and Hughes, 2019).

In a review of the first two years of operation the NSW Ombudsman (2006) concluded that ‘there is little or no evidence to support claims that drug detection dog operations deter drug use, reduce drug-related crime, or increase perceptions of public safety’. Other research has shown that the presence of drug detection dogs has minimal deterrent effect on drug use and supply (Dunn and Degenhardt, 2009; Grigg, Barratt, and Lenton, 2018; Hughes et al, 2017) and that it often leads to more risky drug taking behaviour, such as purchasing drugs from inside festival grounds (Hughes et al, 2017), or hurriedly consuming drugs upon sighting the dogs to avoid detection (Dunn and Degenhardt, 2009; Grigg et al., 2018). The evidence demonstrates that police use of drug detection dogs is ineffective and often counterproductive. There is thus merit in reconsidering the NSW Police drug detection dog policy, to curtail or reform the policy to ensure they are only used post obtaining a warrant and in situations where suppliers are likely to be detected.

4.) Harm reduction

Recent evidence has highlighted the role of harm reduction programs and services in improving the safety, amenity and inclusivity of night-time entertainment settings. While peer-reviewed research is still sparse in some areas, there are a number of services in operation (in Australia and internationally) that show promise and should be considered for introduction, improvement or continued funding in Sydney:

a) Diversion programs for drug use/possession

Drug use and possession is a criminal offence in most parts of the Australia, but Australia has had a long history of using drug diversion programs for simple use and possession offences, whereby offenders are diverted away from criminal justice sanction or into drug education/treatment (Hughes and Ritter, 2008). A wealth of evidence demonstrates the benefits of such approaches, including that it reduces the number of people who are arrested and sent to court for this offence alone, saves costs, increases employment prospects, improves relationship ties with family and friends, and is not associated with an increase in drug use or offending (see for example Payne et al, 2008; Hughes et al, 2014; Shanahan et al, 2016). But, there remain large gaps in diversion access in Australia.

Of note, Hughes, et al (2019) have just completed a project funded by the Commonwealth Department of Health that quantified the reach of Australian drug diversion programs, using Australian Bureau of Statistic data on all offenders with a principal offence of use and possession detected over the period 2010-11 to 2014-15.

Key findings from this analysis were:

- Nationally, over the five-year period, 55.5% of offenders detected for a principal offence of use/possess in Australia were given a police drug diversion.
- The proportion of use/possess offenders in Australia diverted by police away from court has declined year on year. For example, the proportion diverted away has reduced from 59.1% in 2010-11 to 51.2% in 2014-15.
- The most important factor shaping whether use/possess offenders were given a diversion was jurisdiction. Across jurisdictions, the incidence of police diversion varied from 32.4% (Western Australia) to 98.0% (South Australia). New South Wales had the third lowest rate of diversion – with only 46.8% of offenders with a principal offence of use/possession given a diversion.

b) Drug Checking

There are a number of studies that suggest implementing on and off-site drug checking facilities and providing testing kits could help NTE patrons/attendees identify toxic and potentially lethal contaminants as a means of reducing drug -related harms (Measham, 2019; Brunt, 2017; Brunt et al, 2017). The rationale for the operation of these services lies in informing people who decide to use currently illegal drugs or new psychoactive substances (NPS) about the content and purity of the products, so they can make a more informed decision about whether to use them or how to use them. There is also evidence to suggest that drug checking facilities could be utilised in monitoring illicit drug trends, such as the prevalence and use of novel psychoactive substances, and changes in drug purity (EMCDDA, 2015). Alongside information around monitoring drug market changes and the appearance of new psychoactive substances on the market, a key function early warning systems is to identify signals of serious harms and respond as necessary. The utility of this data lies in it being shared among police, health, emergency and other peripheral harm reduction services. A recently published US-Australian study (Palamar and Barratt, 2019), suggests that 54 per cent of ecstasy users surveyed said they were less likely to use ecstasy again if they learned their ecstasy contained 'bath salts' (synthetic

cathinones) or methamphetamine. Similarly, results of UK's first comprehensive pill testing evaluation show that one in five substances tested at the festival was not what people expected, and among people mis-sold substances, two thirds chose to hand over further substances to be destroyed (Measham, 2019).

Furthermore, there have not been two official pilots of drug checking conducted in Australia, both at ACT music festivals. These found that “42% (of patrons) reported that their drug consumption behaviour would change as a result of the testing and 18 per cent indicated that they would either discard the drugs in the amnesty bins provided or were uncertain as to what they would do as a result of the information provided by the service” (Australia, H. R., & DanceWize, H. R. V., 2018). While these types of drug checking services have not been piloted in the night time economy in any Australian setting, a recent NDARC review (Barratt et al, 2018) illustrates how these services are available in night time economies in some overseas contexts, including countries like Spain, Belgium and Switzerland (Barratt et al, 2018) - where both on site services at festivals, and fixed-site booths in city centres are available for patrons to submit a drug sample for analysis and receive brief interventions while waiting for analysis results. Services conduct these interventions to provide objective information about tested substances, as well as a short counselling intervention, with the option of referral to other interventions.

c) Safe Spaces

Internationally, safe space programs have been widely used with the aim of improving city safety and amenity, particularly in spaces featuring high-levels of AOD consumption and harm. In the United Kingdom, a recent study estimated there are up to 45 safe spaces in operation throughout a range of public nightlife settings across the country (MAKE Associates 2017). In Australia, a number of similar harm reduction services, notably Chaplain Watch NightSafe program in Brisbane and the Youth Street Teams in Melbourne, operate specialised services, including safe spaces and support/ harm reduction services for intoxicated persons in night-time entertainment precincts. Despite the growth of such services, there remains a notable absence of rigorous, independent evaluation regarding the outcomes and/or social benefit of safe space programs. In Sydney, three safe spaces have been operating in key nightlife precincts in the City of Sydney (Sydney Town Hall, Kings Cross and Darling Harbour) since 2014. Managed by the Thomas Kelly Youth Foundation, the Take Kare Safe Space program is currently being evaluated by two

members of the submission team (Shakeshaft and Wadds) using cost-benefit analysis, with the results due in late 2019.

d) RSA training and compliance

Non-compliance with Responsible Service of Alcohol (RSA) guidelines greatly increases risks of harm for patrons of licensed venues (Homel et al, 2004; Sim et al, 2005; Graham et al 2006; Graham and Homel, 2008; Miller, 2013). In particular, regulators may wish to consider more effective enforcement of existing RSA policies regarding alcohol promotion linked with mass intoxication (heavily discounted drinks, shots, alcohol mixed with energy drinks etc.) (Miller et al 2013; McFadden et al 2015).

e) Security training, regulation and compliance

Research indicates that private security staff are regularly involved in instances of alcohol-related violence (Hobbs et al 2003; Tomsen 2005; Wadds, 2013; 2015; Monaghan 2016; Tomsen and Wadds 2016). The quality of their responses to patrons inside licensed venues has a distinct impact on the likelihood of compliance or, conversely, conflict. While training standards have improved in recent years, there is still capacity to integrate more specific physical intervention and prosocial training into registered training programs for private security staff working in licensed settings.

5.) Licensed venue density and issues of safety

A range of studies have explored associations between licensed outlet density and violence (Liang and Chikritzhs, 2011; Livingston, 2011). Despite methodological limitations, findings are generally consistent, associating higher outlets densities with higher levels of violence. More research needs to be done to establish thresholds at which licensed venue density adversely impacts rates of alcohol related violence, but this body of research indicates that planning policy should continue to regulate the number, location and clustering of licensed venues in nightlife precincts.

6.) Public transport

Research out of Victoria suggests that providing 24-hour public transport has increased the amount of time people spend in nightlife settings without obviously impacting on drinking behaviour (Curtis et al, 2019). While this research was conducted in a city that is distinctively different in terms of size, available public transport options, and concentration of nightlife, it does point to the benefits of extended public transport in improving vibrancy in the NTE.

Recommendations:

1. Improve RSA compliance.
2. Increase late night food options.
3. Improve security training, particularly in pro-social and physical intervention.
4. Consider feasibility of piloting pill-testing in the NTE.
5. Increase access to secure late-night public transport.
6. Continue to support the presence of the Take Kare Safe Space program until the results of the evaluation are known in late 2019.
7. Expand drug diversion programs for use/possession offences in NSW.
8. Curtail or reform the NSW drug detection dog policy to ensure they are only used post obtaining a warrant and in situations where suppliers are likely to be detected.

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