

**Submission
No 463**

SYDNEY'S NIGHT TIME ECONOMY

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Submission to the Joint Select Committee on Sydney's night time economy

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INTRODUCTION

Public disenfranchisement is and without clear action will continue to be the Government's key problem in properly addressing what many people perceive as a wowsler war on creative culture, legal entertainment and general activity after-dark in Sydney.

My submission is structured to provide the following information.

1. Personal Experience: Outline my experience as an engaged stakeholder of various involved communities;
2. Sydney As It Stands: Highlight disenfranchisement and overregulation as fundamental problems impacting confidence in the Government's ability to strengthen Sydney's night-time economy; and
3. Sydney To Be Seen and Heard: Provide four recommendations to Government that seek to engage and encourage stakeholders to act and restore trust to overcome the glut of night-time offerings in Sydney.

This submission primarily relates to points (c) and (d) of the Committee's Terms of Reference.

The legislative and regulatory changes associated with the lockouts introduced in NSW in 2014 have produced a range of effects of a magnitude that would be difficult for a single person to address. However, through adding my personal perspective, I hope to deepen the Government's understanding of the reality of the impact of lockouts and offer practical suggestions that allow a shared vision to be constructed and pursued.

In this course of this Committee's activities Members should already be aware of academic research that suggests the lock-out laws are not reducing non-domestic assaults¹, and that changes to the Liquor Act 2007 and Liquor Regulations 2008 are resulting in the ongoing and substantial decline of operational venues in Sydney². Repeating the plethora of statistics that demonstrate the ineffectiveness of the lock-out laws in achieving their stated aims, and that they continue to have significant negative impacts on Sydney's economy and culture, will not make them more true. In making this submission I feel I should illuminate aspects of impacts of the lock-outs laws that I have uniquely experienced and subsequently provide relevant suggestions that seek to address these insights.

The Government has done an excellent job at making the case and acting to achieve investment in infrastructure for economic growth and public amenity across NSW. The night-time economy should be no different. In the medium- to long-term we should aim to end the delineation between the so-called day-time and night-time economies. It is vital to developing an enterprising city that sees all hours of activity as a space for growth, for opportunity over fear.

¹ <https://sydney.edu.au/content/dam/corporate/documents/centre-for-translational-data-science/Lockout%20laws%20research.pdf>

² <https://www.abc.net.au/triplej/programs/hack/inquiry-after-lockout-laws-finds-sydney-has-a-music-venue-crisis/10501454>

1. Personal Experience

The people I speak to simply express the desire to enjoy their time freely, work in their chosen field, offer patronage, provide experiences and feel connected. They feel their state government should not stand in the way of an environment that allows these activities.

As the 2019 Liberal Candidate for the Federal seat of Sydney, a former NSW Liberal Ministerial staffer, someone who has worked at the door of a morning club event in Darlinghurst, a person formerly involved in the Keep Sydney Open organisation, a local resident and city worker under 30 years of age, I have:

- felt the reduction of entertainment options I can access, particularly electronic music events in the Kings Cross area, Darlinghurst, Surry Hills and the CBD;
- witnessed the shrinking and shut down of friends' businesses in Sydney, including entertainment venues, restaurants, bars and event organising;
- noticed decreasing opportunities for employment in hospitality and entertainment, including musicians, waitstaff and sound and lighting engineers; and
- personally received feedback from hundreds, if not thousands, of residents and workers who are angry and frustrated about the Government's stifling approach to the night-time economy.

Through my various roles I have had the opportunity to speak to a wide variety of people about the impacts of the lockouts. The overwhelming response is that the lock-out laws are a shallow response to a now largely fabricated problem. I recognise the importance of Government leading the way to provide a safe city for all. And with connections throughout the performance and hospitality industries, I see the hard work that goes into creating unique entertainment experiences in a competitive environment. I also experience the joy of being out-and-about in our great city, meeting friends, making new ones and being part of an expressive, positive community. During the 2019 Federal election campaign, the plea to address the damage that Sydney's lock out laws have caused in the hospitality, food and beverage, entertainment, creative and artistic industries, through jobs and businesses, and affecting artists, tourists, people on various visas, came second only to concern about climate change.

The problems caused by the lock-out laws are far-reaching and are barely addressed here, however, more importantly than reiterating the existing landscape, I offer a number of insights and practical suggestions to address the challenges I have experienced and am aware of.

2. Sydney As It Stands

- **Disenfranchised**

The perception that the NSW Government sees Sydney as a dangerous place where young people are abusing alcohol more than ever does not reflect the facts on-the-ground. Academics are continuing to publish studies that show young people are drinking less than older generations³ and that Sydney remains one of the safest cities in the world. In 2017 Sydney ranked 7th out of 60 in The Economist's 2017 global Safe Cities Index⁴. Currently our legislation does not reflect these realities, where community standards, research and the Government's policy response are seriously misaligned. This must be addressed through more rigorous policy-making and improved communication.

³ <https://ndarc.med.unsw.edu.au/blog/dont-believe-hype-teens-are-drinking-less-they-used>

⁴ <https://dkf1ato8y5dsg.cloudfront.net/uploads/5/82/safe-cities-index-eng-web.pdf>

Secondly, the impression that policymaking occurs behind closed doors is contributing to feelings of disenfranchisement amongst the entertainment community. One of the most unsatisfying aspects of the Callinan Review was the manner in which it was conducted, seemingly without heed for the value of creative expression and public gathering, or the way in which people in diverse industries engage in the process of collaboration differently.

Finally, it is clear through a comparison of venues considered ‘high risk’ and ‘low risk’ that there is a divide down the lines of age and financial access as to what is considered “acceptable”. Where private clubs requiring membership at the cost of thousands of dollars remain unscathed by increased regulatory burdens, venues that cater to younger demographics with free or low price points to entry are largely considered “high risk”. This is despite not having recorded any incidents, but simply due to a determination made by the Department under the Liquor Act 2007.⁵

These unfair impositions on law-abiding businesspeople reflect a huge overreach in the discretionary powers of the Department, assuming future guilt and dealing out the punishment of unwarranted restriction. It is not difficult to see why venue owners, licensees and businesspeople feel disenfranchised under this system.

- **Overregulated**

The artistic and business communities already do the heavy lifting in developing Sydney’s night-time offerings. Unnecessary regulatory burdens are tipping the scales so firmly against commercial viability that entrepreneurs, artists and patrons are declining to act, or deciding to take their business elsewhere. Melbourne has become the undisputed culture capital of Australia, offering hundreds of shows every week across a range of artistic forms.

I have provided some examples of additional costs for businesses as imposed by NSW’s lock-out legislation and regulation. These costs don’t account for the amount of time required to undertake these processes. Additionally, I am aware of instances anecdotally where Departmental staff have granted formal regulatory approval but subsequently advised against the use of exemptions, issuing thinly veiled threats around enhanced enforcement.

- \$500 to submit a form to request the removal of ID scanners [AM0899]
- \$250 to submit a form to request half-hour live entertainment exemption to 1.30am lock out and 3.00am last drinks [AM0660]
- \$40 to add privacy training to competency staff cards (required for use of ID scanners)

The effect of over-regulation has left established businesspeople, including owners of iconic, longstanding restaurants and pubs, with diminishing opportunities to expand or innovate.

More broadly, from artists, restaurant-owners and entrepreneurs, to people living in Australia through visa programs, there is a strong feeling that Sydney offers little opportunity for enterprise or reward for out-of-the-box work.

3. Sydney To Be Seen and Heard

- **Enfranchised**

⁵ http://www5.austlii.edu.au/au/legis/nsw/consol_act/la2007107/s116b.html#high_risk_venue

(A) COMMUNITY TOWN HALL

Public, open discussion about change in a forum that values creativity and personal interaction, for example, a community Town Hall relating to Sydney's nightlife.

The next changes to the Liquor Act 2007 and Liquor Regulations 2008 should not be seen to be happening behind "closed doors". The Government must recognise that the vast amount of people affected by the lock-out laws and associated regulations operate in industries that thrive on meeting in physical spaces to have new experiences and enjoy the company of others. It is vital that the Government acknowledges the ways in which hospitality and entertainment-based groups interact, and duly engage in those spaces. The nature of the night-time economy is about gathering together. The Government must demonstrate a changed approach to reform, prioritising inclusivity by asking for invitation to experience the creativity of the industry and develop with a better vision together.

Improving policies that relate to a Sydney Entertainment Precinct, developing shared goals for growth and thinking innovatively about methods of interaction between industry and Government should form the basis of a Community Town Hall, directly addressing part (c) of the Committee's Terms of Reference, that regulation remain appropriately balanced.

(B) COLLECT, DISPLAY AND TARGET – Expanding the use of data

Collecting, displaying and setting targets relating to entertainment and night-time activity in Sydney will play a key role in demonstrating change and providing a shared vision for a growing night-time economy.

As the saying goes, if you can't measure it, you can't manage it. The Government should lead the way in aiming for significant growth in night-time entertainment options, rather than appearing to be satisfied with the shrinking calendar of events throughout the city.⁶

Given the Government rightly values information about alcohol-related violence, it is reasonable to create an equivalent data set relating to entertainment offerings in Sydney. Measuring the number of events and putting targets on these data sets to achieve vibrancy will create a shared goal with stakeholders. This employs the same principles that Government already uses to achieve policy objectives and aligns with the Government's focus on transparent information access through <https://data.nsw.gov.au/>.

Restoring faith in the Government's ability to effectively utilise data is an important part of this measure. Reports of the double counting of crimes added to feelings of disenfranchisement and a loss of confidence in the information that the Government uses to expand laws that threaten people's liberty.⁷

Placing a transparent and positive data focus on Sydney's entertainment will strengthen the outcomes of the Committee's focus, particularly point (d), to enhance the night-time economy.

- **Better Regulated**

Effectively improving Sydney's economy, particularly in competing with Melbourne, will require a less heavy-handed approach to regulation of the night-time economy, encouraging rather than punishing enterprise.

⁶ <https://www.smh.com.au/entertainment/music/sydney-cbd-s-entertainment-precinct-is-a-live-music-wasteland-20190531-p51tbn.html>

⁷ <https://www.abc.net.au/news/2018-09-09/drugs-posSESSIONS-double-counted-in-nsw/10218888>

(C) REVERESING THE ONUS

Currently venues can be deemed high-risk without any particular proof of fact. Returning to a fairer innocent-until-proven-guilty model will allow businesses the space to thrive.

Facilitating best practice is an important part of changing attitudes and relationships between night-time economy industries and the Government. Reversing the burden of proof regarding the consideration of high-risk venues is an important step. Placing restrictions on venues that have demonstrated an unwillingness or inability to address safety or illegal activity is a fair response to recognised wrongdoing.

(D) SHARING KNOWLEDGE

Should the change around the burden of proof not be achieved, I believe it is vital that the Government make clearer what requirements and strategies are necessary to successfully apply for exemptions to automatic restrictions.

For example, the Departmental website notes that “[o]ther measures [that] are in place that will be effective in reducing the risk of alcohol-related violence or anti-social behaviour in and around the premises,” will be considered in granting an exemption to restrictions on trade.⁸ However, there is little public awareness or knowledge-sharing around what measures have driven success in improving safety and patronage. In the spirit of better regulation, these highly discretionary measures must be more positively utilised.

Publication of information relating to the number of applications for examples submitted and approved or denied would also contribute to better understanding of what measures are considered inadequate or useful in creating a safer venue.

CONCLUSION

Though far from exhaustive, the points in this submission synthesise the experience and feedback I have, and offer practical suggestions to bring the Government and external stakeholders more closely together to enhance Sydney’s night-time economy. The Government can take trustworthy action to offer a changed approach to embracing a currently cynical, yet very driven constituency in pursuit of a shared vision for Sydney.

⁸ <https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-conditions-and-precincts/prescribed-precincts>