

**Submission  
No 776**

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

**Organisation:** City North Liquor Accord

**Date Received:** 8 July 2019

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The Joint Select Committee  
Sydney's Night Time Economy  
Parliament of New South Wales  
6 Macquarie Street  
SYDNEY NSW 2000

*By email: [NightTimeEconomy@parliament.nsw.gov.au](mailto:NightTimeEconomy@parliament.nsw.gov.au)*

Dear Joint Select Committee

**SUBMISSION BY CITY NORTH LIQUOR ACCORD ("CNLA") ON SYDNEY'S NIGHT TIME ECONOMY ("NTE")**

The CNLA refers to the Joint Select Committee's terms of reference.

**This Submission**

Licensed premises have borne the brunt of the Government's intervention to try and reduce late night violence and anti-social behavior. The 2014 amendments to the Liquor Act ("Lockout Laws") were imposed as a blanket solution to try and fix those issues.

However, the CNLA sees violence and anti-social behaviour as being a far more complex issue than simply ruling that the City needs to be locked down by 1:30am and shut down by 3:00am.

For this reason, the CNLA supports the repeal or, in the alternative, substantial relaxation, of the Lockout Laws.

After an introductory section, this submission is divided into four parts addressing the Joint Select Committee's terms of reference, namely the need to:

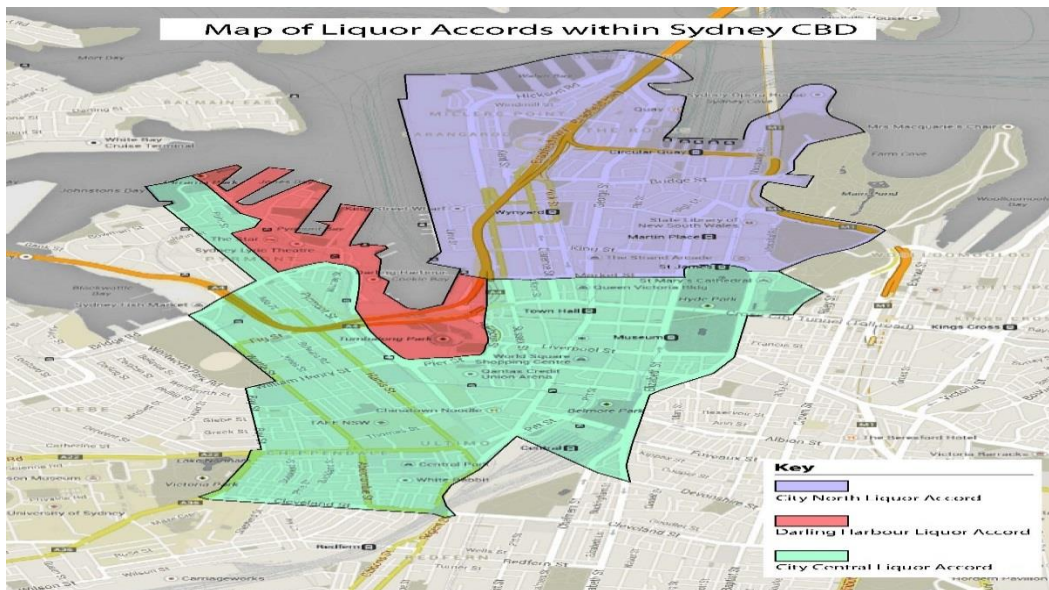
- (a) maintain and enhance community safety;
- (b) maintain and enhance individual and community health outcomes;
- (c) ensure existing regulatory arrangements in relation to individuals, businesses and other stakeholders, including Sydney's lockout laws, remain appropriately balanced;
- (d) enhance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

The CNLA embraces a fun, entertaining, vibrant and diverse Sydney that is safe for all. The CNLA, therefore, welcomes this opportunity to provide a submission on Sydney's NTE.

### About the CNLA

The CNLA is a non-profit incorporated association chaired by a voluntary committee elected from its 318 members.

The CNLA is comprised of owners and operators of licensed premises within the northern area of the Sydney CBD, highlighted purple in the map below.



The CNLA area includes 500 licensed premises in the following precincts: the Rocks, Circular Quay, the Opera House, Barangaroo, Dockside, the northern end of George Street, Wynyard Station, Martin Place and the Domain.

The CNLA area forms part of the northern area of the Sydney Police Area Command.

Membership of the CNLA is voluntary, save for those licensed premises with a licence condition requiring the licensee or approved manager to be an active member of their local Liquor Accord.

In addition to licensed premises, members of the CNLA that attend and contribute to meetings include the City of Sydney Council, officers from Sydney Police Area Command, the Australian Hotels Association (NSW), government agencies, community organisations and representatives of key stakeholders and local residents.

The CNLA:

- represents the interests and assists all licensees and approved managers, hotel staff and security personnel whether they be from hotels, clubs, bottle shops, small bars, cafes, restaurants, liquor wholesalers or other liquor licence holders in the CNLA area.

- provides a voluntary service to enhance and promote communication amongst its members and with community stakeholders.
- seeks to proactively address ways to improve the operation of licensed venues in the CNLA area.

### **The CNLA Area and Patrons**

The natural and built environment within the CNLA area accounts for some of the finest views and scenery in the world.

For this reason, the CNLA area and the Sydney CBD itself is the showcase of the City, which we believe makes it the gateway to Australia.

To year end 2018 Destination NSW estimates that Sydney received nearly 11.1 million domestic and 4.1 million international visitors. The CNLA area is host to the majority of the City's major accommodation hotels, as well as the greatest number of restaurants, bars and cafes. Surveys of both domestic and international visitors, notwithstanding their reason for travel, indicate that the top activity was eating out or dining at a restaurant. The CNLA believes this demonstrates how integral licensed premises are to Sydney's appeal.

The CNLA area is, on a daily basis, comprised of a broad mix of residents, people who commute to the City for work, Sydneysiders who travel to the City for social reasons, domestic tourists (predominately in town for business or holidays) as well as international visitors (predominately in town for holidays and to visit family and friends).

The CNLA sees it as essential that Sydney be know for its creativity, vibrance and diversity, as well as its inclusiveness, friendliness and safety. While the City currently has, undoubtedly, these characteristics, we believe that they can be enhanced by the Government directing more attention to Sydney's night time trade.

The CNLA considers that the Government's starting point should be repairing Sydney's tarnished reputation caused by the Lockout Laws with the CBD environment being re-invigorated and re-energised to offer something to everyone at all hours of the day and night.

### **Maintain and Enhance Community Safety**

#### **(a) Transport**

The CNLA believes that it is key for patrons to be able to quickly and efficiently make their way home after a night out on a busier evening. This will ensure that the City does not become too overcrowded, footpaths do not become too congested and people are not left aimlessly waiting around town for a mode of transport home.

It is the CNLA's view that "busier evenings", as referred to in this submission, are:

- Friday nights;
- Saturday nights;
- nights before a Public Holiday; and
- on the evenings of special event occasions (such as New Year's Eve).

The CNLA considers the following as special event occasions:

	<b>Month</b>	<b>Days</b>	<b>People</b>
<b>Sydney Festival</b>	January	18	
<b>Australia Day</b>	January	1	65,000
<b>Lunar New Year</b>	Jan/Feb	10	325,000
<b>St Patricks Festival</b>	March	1	15,000
<b>ANZAC Day</b>	April	1	
<b>Vivid</b>	May/June	23	2mil +
<b>Bastille Festival</b>	July	4	310,000
<b>Fringe Festival</b>	September	30	
<b>Oktoberfest</b>	October	31	
<b>Melbourne Cup</b>	November	1	
<b>New Years Eve</b>	December	1	125,000

The CNLA would welcome this list of events growing with greater Government, Council and community support.

The last train to and from Circular Quay Station on a Saturday morning leaves at approximately 1:20am and on a Sunday morning at approximately 1:31am, directly to Central Station. In both instances, the last train is very close to the time that people on the street are locked out of most licensed venues in the CNLA area.

Furthermore, Circular Quay station closes on Saturday and Sunday mornings at 1:30am and does not reopen until 4:00am, with the first train arriving at 4:51am.

It is the CNLA'S view that the late-night train services cease far too early and a major item of transport infrastructure should not close for 2.5 hours on busier evenings.

It needs to be understood that, like with a major event, the movement of people is not unilateral such that people can arrive at a destination but are unable to quickly and efficiently return home.

We see it as essential to maintaining and enhancing community safety, as well as promoting Sydney as a world-class international city, that on busier evenings, the City's transport system has the ability to move large numbers of people on a regular basis from key stations out of the CBD.

In particular, the CNLA suggests:

(i) Trains

On busier evenings, trains need to be operational for 24 hours or, alternatively, until a time which is at least half-an-hour after the greater part of the City has ceased trading.

Transport NSW has previously indicated that:

- such an extension would cost at least \$2 million a year;
- this may cause a reduction to train schedules at other peak hours due to essential maintenance work needing to be undertaken at those hours.

We say in response that if the Government is serious about wanting to genuinely increase community safety, develop Sydney's NTE and promote Sydney as a vibrant international City, then surely \$2 million could be found in the budget and a maintenance schedule organised to accommodate the additional hours of train service a week.

Our view is that the benefit of trains, rather than buses, is:

- the clearly identifiable stations;
- the direct route and speed of transport from start to finish;
- the clearly identifiable time of departure;
- that most stations are enclosed, protecting people from the elements;
- that City stations would be attended by staff to monitor safety and security;
- Transport for NSW officers' presence could provide additional safety and security;
- that trains transport greater numbers of people more quickly; and
- that buses are generally perceived as being a less "safe" mode of transport, particularly late at night.

The CNLA recommends that, at the very least, additional train services be offered on a trial basis of not less than 1 year. This would allow a thorough assessment to be undertaken to identify issues and evaluate feasibility.

**Recommendation #1**

The Government undertake a 1-year trial, at least, of 24-hour trains through the CBD and Sydney suburban lines on busier evenings.

(ii) Buses

Late night buses are offered in the City but the CNLA understands their services are under utilised by the public.

We believe the reasons buses are not popular are:

- there is uncertainty as to route, destination, departure times, location of stops from where buses depart, as well as the location of bus stops at which they stop;
- while waiting for buses, bus shelters offer limited protection from the elements and, quite frequently, there are a few public facilities available, particularly toilets;
- for out-of-town visitors, navigating a bus route in comparison to that of a train route, is more difficult, particularly if English is not your first language; and
- bus journeys generally take longer than trains because the routes are indirect.

Any efforts that can be taken to address and promote the above concerns, would, in our view, assist the limited popularity of late-night bus services.

Notwithstanding this, in conjunction with later running trains, we see that buses taking passengers to destinations which are not adequately covered by train services would greatly assist moving people out of the City. The CNLA believes that these measure will improve and enhance community safety.

**Recommendation #2**

Transport for NSW undertake a review of the late-night train and bus services so that there is a full range of transport options available to all parts of Sydney on busier evenings.

(iii) Light Rail

The CNLA understands that in late 2019 the Sydney Light Rail will be operating between Randwick and Circular Quay.

For all those venues which have suffered through the Light Rail works, we can assure you, this is a most welcome relief!

The CNLA understands that the Sydney Light Rail will link the northern most part of the City to the south and then all the way to the east, with regular stops being made in between.

We see this development as a preferable and practical alternative to buses, but should not wholly replace those services, or be any reason to discontinue train services later in the evening.

However, it is also our understanding that the Sydney Light Rail will cease operating in the early hours of the morning during the busier evenings.

The Light Rail is a brand-new transport system; we see no reason why its services should cease at all on the busier evenings.

**Recommendation #3**

Sydney Light Rail service should operate for 24 hours on busier evenings.

(iv) Ride Share and Taxi Services

At the time of the introduction of the Lock-out Laws, ride share services had been in operation in Sydney for approximately 18 months

The CNLA believes that the popularity of ride share services has grown exponentially to 2019, with no sign of slowing down. We form this view because in the last few years additional ride share services have established themselves in Sydney – there would be no reason for them do so unless there was a clear market for them.

The CNLA is aware that, up until three of four years ago, patrons complained of considerable difficulties in hailing a taxi in the City after midnight. However, taxis have now implemented a popular phone application which, much like the ride share phone applications, allows customers to quickly and securely book a taxi.

We see there being considerable benefit to ride share and taxi services having their own phone applications, primarily because it allows patrons to plan their journey home while waiting inside a venue.

The benefits to the City and community safety are that:

- individuals are not waiting on streets, thereby reducing numbers on the curbside;
- passengers can wait with their friends until their ride share or taxi arrives; and



- services are personal, insofar as one driver is arriving for a particular group of people. This reduces the likelihood of there being disputes or arguments over “who hailed the taxi first”.

(b) **Police Presence**

In the CNLA’s view, it is commonly accepted that people, particularly tourists, feel safer and more secure when there is a visible police presence actively patrolling public spaces.

There remain a number of so called “crime hotspots” in the City, which are those late night areas mapped by BOCSAR as being places where a cluster of assaults or anti-social behaviour occur. The CNLA believes that to maintain and enhance community safety additional and a highly visible police presence after midnight, until half-an-hour after the last venue closes, needs to be deployed in those areas. This is particularly so on busier evenings.

We understand that this is both a budgetary and strategic issue, but we feel that additional resources should be made available to the Police to ensure that the excellent job they are already doing is supported by the Government as much as possible.

We understand, from the Government’s point of view, that it does not wish to be funding the Police to deal with intoxicated people that licensed venues have simply turned out to make someone else’s problem.

The CNLA observes that the risk based licensing scheme is now in full effect. We see it as essential that a substantial portion of this fee continue to be allocated to the Police so that licensed premises are, in effect, funding the higher Police presence.

We believe that a sound operational strategy (coordinated across the City) needs to be developed by the Police to patrol and monitor the “crime hotspots” in a highly visible manner, especially after midnight.

For the sake of clarity, the CNLA is not suggesting that additional Police should be engaged to deal with situations created by licensed premises.

Licensed premises must adhere to minimum standards and promote best practice operations in order to control their patrons in and around their venues. A licensed premises that is unable to satisfy these criteria should lose its ability to trade late.

However, the CNLA’s view is that the combination of venue responsibility and a highly visible late night Police presence in “crime hotspots” will maintain and enhance community safety in the City.

**Recommendation #4**

There be a highly visible, coordinated police presence in “crime hotspot” areas in and around the City on the busier evenings after midnight. This should be funded by the risk based licensing fee.

(c) **Requirement for Licensees and Approved Managers to undertake immediate Licensee Training**

The CNLA notes that the Liquor Regulation has been amended to require licensees or approved managers to undertake either a standard or advanced licensee training course, dependent on the nature of the venue that they are operating.

However, we note that licensees and approved managers have until 1 April 2024 or before their NSW competency card expires (whichever is earlier) to undertake this additional training.

Our view is that in order for a City licensee or approved manager to put in place best operating procedures, they need to be up to date with the law, available technology, practices and procedures and have a comprehensive understanding of the issues facing the City and the hospitality industry.

With that said, we see no reason why all licensees and approved managers wishing to operate a City venue, particularly a late trading one, should delay in undertaking that training.

**Recommendation #5**

Licensees and approved managers operating or wishing to operate venues in the Kings Cross or Sydney CBD Precincts should undertake either the standard or advanced licensee course as soon as possible.

(d) **Liquor Accord Membership**

Liquor Accords are professionally managed hospitality industry organisations that have a highly experienced leadership team at their helm.

Liquor Accords are, by their very nature, bodies which are able to offer guidance and give advice to venues so that a safer environment and better managed local industry is developed.

City Liquor Accords, particularly the CNLA, is able to disseminate important information quickly to its member venues. Such information may include:

- emphasising key liquor and social issues;
- identifying key compliance, regulatory and safety related matters; and

- directions and advice identifying risks that member venues may be facing during particular evenings and how to best minimise those risks.

One such example is the “Ask for Angela” initiative, which the CNLA has endorsed and encouraged its members to adopt.

The CNLA meets regularly with the four other City Liquor Accords and we believe there is greater room for these organisations to collaborate more frequently and on a more coordinated basis. The benefit to the City would be bringing together key personnel from established licensed premises to develop and implement strategies uniformly across Sydney.

The CNLA would, therefore, encourage a legislative change requiring all licensed premises to be members of their local Liquor Accord. We see this as being the only way that the best flexible, but uniform, practices in harm minimisation can be established across the City.

#### **Recommendation #6**

The Liquor Act be amended requiring all licensed premises to be members of and active participants at their local Liquor Accord.

#### **(e) Public Advertising Campaign**

One of the stated objectives of the Government at the time of introducing the Lockout Laws was to change the drinking culture.

The CNLA that acknowledges that the great majority of people do not need a public information campaign telling them how to behave when out socializing in the City.

However, it is the small percentage of people who can ruin it for the rest. Therefore, we see it as being pro-active that the Government implement a dedicated advertising campaign on television, radio, public spaces, on buses and at all licensed premises in the City that:

- explains the penalties for alcohol fuelled violence and antisocial behaviour, including descriptions and examples of what this looks like;
- explains that there should be a relaxation to the Lockout Laws, that the relaxation rests on the behaviour of people attending the City in the evening; and
- explains to people their obligations should they become intoxicated on licensed premises, including a description of the offence of failing to quit.

This advertising campaign should be developed, in our view, in collaboration with the Police, L&G NSW Compliance and the City Liquor Accords.

In particular, the notices and advertisements regarding intoxication on licensed premises and the offence of failing to quite needs to be translated into numerous languages. We are aware that our neighbouring Liquor Accord, the City Central Liquor Accord, assisted L&G NSW with such a project.

**Recommendation #7**

Further attempts be made to change drinking culture by an advertising campaign explaining the rights and responsibilities, as well as the social expectations required, of patrons in and around City licensed premises.

**(f) Intoxication on Licensed Premises**

Section 73 of the Liquor Act requires intoxicated persons on licensed premises to be asked to leave. A licensee's or approved manager's failure to do so is a breach of the Liquor Act.

As former Premier, Barry O'Farrell, stated in his Second Reading Speech introducing the Lockout Laws "... you will continue to be sold alcohol until you are so drunk you are thrown out and the problem is transferred to the streets".

This is a common criticism of licensed premises and is, in the CNLA's opinion, unjustly so.

Best practice dictates that licensed venues should prevent its patrons becoming intoxicated, but the practical reality is that some people can mask their levels of intoxication better than others. Similarly, some people may not immediately exhibit signs of intoxication when first entering a venue.

The issues are that:

- asking or requiring the patron to leave can create tension with or elicit a violent response by the patron on the licensed premises;
- if that patron has a group of friends, you are effectively removing that patron from the group of friends and putting him/her out onto the street on their own, where they could either cause a problem or suffer misadventures at the hands of another; and
- if one patron is removed, this could prompt the remainder of the patron's friends to leave (which is undesirable from a business point of view) or it could cause tension with or elicit a violent response by with the remainder of the group.

It is apparent from former Premier O'Farrell's Second Reaching Speech that issues with alcohol-fueled violence and anti-social behaviour do not arise, primarily, inside licensed premises; the issue is more to do with the high volumes of people walking around crowded footpaths, some of whom may be inebriated.

The CNLA endorses the obligation on a licensee, staff and security to actively monitor all patrons on their licensed premises for levels of intoxication and patrons' rates of liquor consumption.

Additionally, the CNLA endorses the obligation on the licensee, staff and security to prevent intoxication and, if in their reasonable opinion, that limit is being approached, alcohol must cease being served to that patron.

The offences for serving, or permitting staff to serve, intoxicated patrons are substantial, not only in terms of the monetary penalty, but also through the additional sanctions under the Liquor Act by way of a strike (or strikes) against the licensee or approved manager.

However, the CNLA suggests that there be a change to the Liquor Act such that there is no obligation to remove an intoxicated or disorderly patron from a licensed premises (unless there is a risk to public safety).

The CNLA would encourage licensed premises to manage that patron using some or all of the following measures:

- offering complimentary tea, coffee or water;
- offering complimentary basic food;
- allow that person to remain with his or her group of friends until such time as that group chooses to leave the venue; or
- allow the patron to remain with his or her group of friends until arrangements are made for that patron to be collected or taken to public transport.

The CNLA is aware of the obvious issue that a licensed premises cannot oblige a person to remain at its venue. However, we feel that if that patron was given the option of staying on the licensed premises with his/her group of friends, the patron would prefer that to being turned out onto the street.

The CNLA acknowledges that in a group environment, the issue of secondary supply by the patron's group of friends could occur. However, best practice operators should know how to address this issue, thereby placing responsibility back on the patrons rather than the venue.

It would follow that if the intoxicated patron is seen with liquor or his/her friends are seen giving that patron liquor, then all of the group should be required to leave the licensed premises, which is, practically, what is presently occurring in any event.

**Recommendation #8**

The Liquor Act be amended to remove the offence of allowing an intoxicated person to remain on licensed premises.

## **Maintaining and Enhancing Individual and Community Health Outcomes**

CNLA can say, quite firmly, that our members care for their patrons and do not want to see any harm come to them, whether inside a venue, walking along the street or making their way home.

That being said, the CNLA does not support a blanket 3:00am cessation of services across the Kings Cross and Sydney CBD Entertainment Precincts.

We acknowledge that there is research which indicates that the more readily available liquor is, the greater the occurrence of alcohol-related violence and anti-social behavior. However, it is, in our view, impossible to sanitise a major city without causing businesses and the City's reputation immeasurable harm.

### **(a) 3:00am cease service**

We note that the Lockout Laws implemented a 3:00am cease service across the Kings Cross and Sydney CBD Entertainment Precincts.

In 2016, an amendment to the Lockout Laws was passed permitting live music venues to sell liquor until 3:30am provided it coincided with the provision of live entertainment.

City of Sydney Council has, for a long time, adopted the view that extended trading hours are a privilege, and this is congruent with the views of the CNLA.

We believe that a venue's compliance history and business model, particularly the measures it has in place to safely manage and control its patrons, are the material considerations to determine at which hour liquor sales should cease for that venue.

Bearing in mind that many nightclubs, at least those that are left in Sydney, do not start operating until around midnight, their ability to earn an income from just 3 hours of liquor sales is hugely minimised.

There have been suggestions that licensed premises should consider working with the Lockout Laws rather than trying to fit their same business model into the restrictions.

However, the CNLA believes this poses an unacceptable risk to our members: investing a lot of money on an idea which does not work could ultimately see them lose their livelihood, the closure of their venue and result in a greater loss of jobs.

#### **Recommendation #9**

The 3:00am cease service be repealed and replaced with a merits based assessment of the extended trading hours of a venue. Compliance history and operational procedures should be the two key criteria to determine a venue's extended trading hours.

(b) **Falling Levels of Violence before the Lockout Laws were Imposed**

Prior to the 2014 introduction of the Lockout Laws, the level of violence in the City was decreasing annually. The CNLA therefore questions whether such drastic measures were needed.

Organisations, like the CNLA, have been working tirelessly to improve the practices of licensed premises and to create a safer City environment for the public. However, these efforts appear to have been cast aside in favour of a broad-brush approach to “solve” the issue of alcohol-fueled violence and anti-social behavior.

We refer to the 2016 Late Night Management Areas Research: Phase 4 report prepared by City of Sydney Council and consultants Urbis and Austraffic. This report provides a snapshot of two typical evenings in the City.

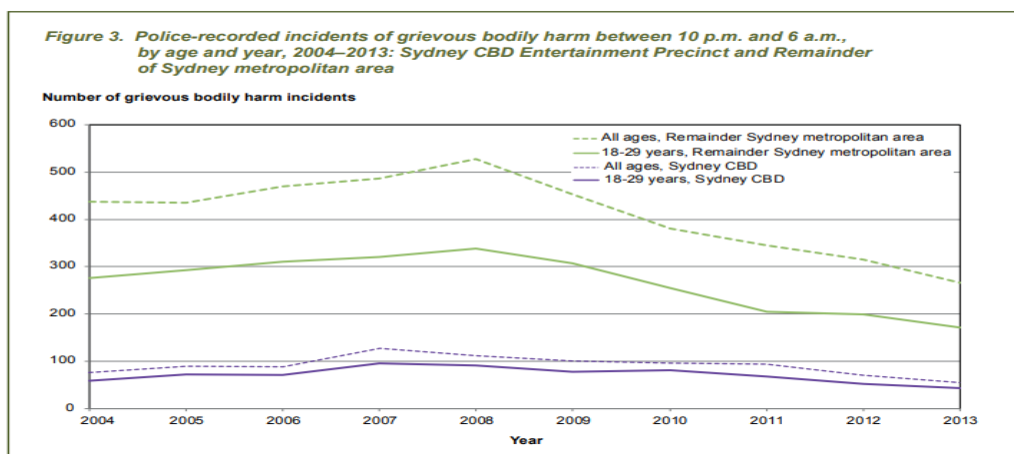
Generally, in both Kings Cross and Oxford Street districts, pedestrian activity peaked at 1:00am at levels, in some cases, higher than 2012, then fell sharply and continued to decline without a secondary peak arising at 3:00am – 4:00am, as previously occurred.

The CNLA’s view is that the benefits and detriments of the Lockout Laws, depending on which side of the argument you sit, arise from one fact – the reduction of the number of people entering and remaining in the City later in the evening.

For want of a better term, we view this as a “band-aid” solution which does not address the actual issue of how to reduce violence and anti-social behaviour.

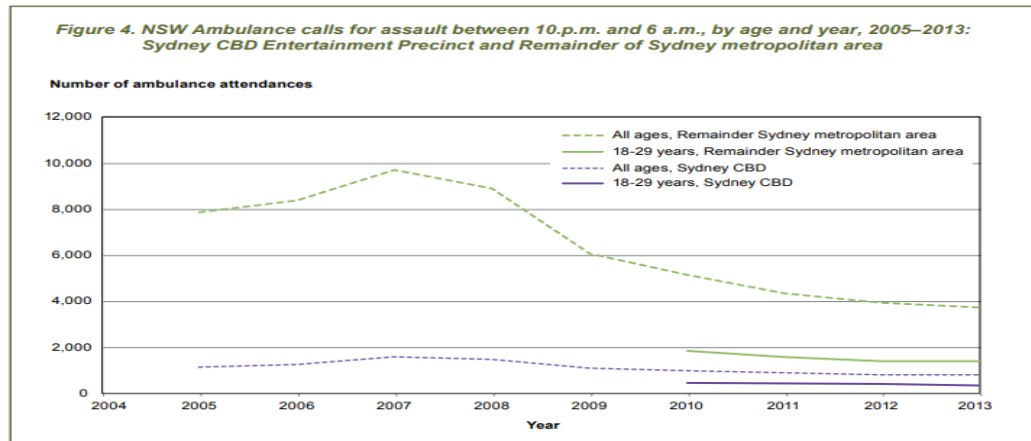
As stated above, all our members wish for their patrons to be safe. The CNLA believes that the best way to ensure this, in a sustainable and proactive manner, is to continue the good work which the Liquor Accords started in 2008: that is, advising and guiding their members to implement best practice and harm minimisation procedures.

As an illustration of this point, the CNLA produces below Figure 3 from the August 2015 BOCSAR report entitled “That’s entertainment: Trends in late-night assaults and acute alcohol illness in Sydney’s Entertainment Precinct”.



The above graph indicates that crimes of grievous bodily harm in Sydney's CBD had almost halved as at 2013 when compared to 2007.

Similarly, as can be seen in Figure 4 from that BOCSAR report, below, NSW Ambulance calls for assault between 10:00pm and 6:00am almost halved in the Sydney CBD from 2007 to 2013.



The CNLA acknowledges the outstanding work that the Police, ambulance officers and medical profession do within the community. However, as proposed at (a) above, we see that the current Lockout Laws are unsustainable and that a more flexible, merit-based system, with the City Liquor Accords at the forefront, will continue the 2007 downward trend of serious assaults.

(c) **Pre-loading**

The issue of pre-loading, whereby cheaper alcohol is purchased and consumed at home before patrons travel to their destination, has been around for decades.

In our experience, the issue of “pre-loading”, particularly for younger people, is created by a circular problem:

- cheaper liquor is purchased from a bottle shop, therefore saving money;
- patrons then travel to licensed premises where drinks are more expensive;
- due to levels of liquor consumption before arriving at a venue, patrons need less to drink at the licensed premises;
- this reduces the income of the licensed premises;
- licensed premises have a bottom line they need to meet and that is, largely, achieved through drink sales (at least, for a hotel category liquor licence);
- if the volume of liquor sold goes down, it is inevitable that prices need to go up; and



- this leads to patrons wanting to save money by drinking more at home.

We also point out that it is an offence for licensed premises to promote or sell greatly discounted liquor. All too frequently licensed premises receive “show cause” notifications from L&G NSW Compliance requiring justification of a particular promotion (which may have breached the Liquor Act).

To encourage patrons to attend their venue earlier, licensed premises offer promotions such as “happy hours” or discount meal prices. However, while these promotions have some success, the CNLA has no doubt that many patrons, particularly younger ones, prefer to go home, have a meal, change to go out before meeting their friends and then travelling into their destination, often quite late in the evening.

The CNLA is not sure what more licensed premises can effectively do to try and change their business model to attract patrons earlier.

Notwithstanding the above, the issue of pre-loading has long caused concerns for licensed premises because they, in effect, have no control over how much a person drinks before trying to gain entry into their licensed premises.

As stated above, some people can mask their levels of intoxication better than others and it may take some time for a licensee, approved manager, staff or security to accurately assess a patron before detecting their level of intoxication.

The CNLA refers to the June 2019 study entitled “A big night out getting bigger: Alcohol consumption, arrests and crowd numbers, before and after legislative change”. This found that following the Queensland Government’s legislative change to reduce trading hours for alcohol sales in designated entertainment zones, there was a discernible increase to patrons arriving later at the nighttime entertainment districts having increased their alcohol pre-loading.

As discussed above, this is a cultural issue which licensed premises in the City have very little control over.

More than ever, arguably through the introduction of the Lockout Laws, it leads to licensed premises being left to deal with the issue, often confrontational and occasionally violent, by refusing patrons who have had too much to drink before even setting foot on their venue.

The CNLA appreciates that pre-loading cannot be banned. However, we do believe it provides another sound reason to remove the 3:00am last drink cut-off time.

**(d) Reduced Alcohol Consumption in the Community**

On a broader community basis, the Australian Bureau of Statistics released in September 2018 a review stating that the consumption of alcohol per person has dropped to levels not seen since the 1960s.

The CNLA believes that this downward trend is sustained by the public's renewed interests in health, fitness and career, as well as being a sign of Australia's aging population.

We believe that with these falling figures, there would be a corresponding reduction in, not only, the number of people, but also, the amount those people are drinking, particularly later in the evening.

Therefore, the CNLA, does not see that the repeal of the 3:00am last drinks service in the City will affect the downward trend in alcohol consumption.

### **Regulatory agreements, including Sydney's Lockout Laws, remain appropriately balanced.**

#### **(a) 1:30am Lockout**

The CNLA believes that the 1:30am lockout should be removed from the Kings Cross and Sydney CBD Entertainment Precincts.

BOCSAR data identifies that there has been some proximal and distal displacement caused by the 1:30am lockouts: non-domestic assaults since January 2014 are up:

- 12% in proximal displacement areas (including the Star, Ultimo, Chippendale, Haymarket, Surry Hills, Elizabeth Bay, Rushcutters Bay and Darlinghurst); and
- 17% in distal displacement areas (including Bondi Beach, Coogee, Double Bay and Newtown).

The CNLA suggests that this data adds weight to our view that the Lockout Laws have been successful in reducing the number of people coming into the City, with the public likely travelling to alternative areas without the statutory restrictions to spend their money later in the evening.

In what we see as an effort to alter public behaviour, the City of Sydney Council has recently adopted a new Late Night Development Control Plan which now designates the Sydney CBD as a late night trading area:

- with there being a corresponding increase to trading hours at some Category A and Category B licensed premises;
- creating a new class of premises, Category C (those that don't serve liquor).

The CNLA believes the City of Sydney Council is trying to encourage trade in the CBD, and surrounding areas, outside the regular 9:00am-5:00pm office hours. We also believe the Council is trying to grow the location of the late night City destinations (not just licensed premises) to disperse patron congestion.

To the CNLA, it seems contradictory that the Government has commissioned a study to investigate Sydney's NTE when at the same time, one of the key objectives of the Lockout Laws is to try and stop people coming into the City late at night.

There have been questions asked as to whether the 1:30am lockout really have much of an effect on people's entertainment choices or social destinations. In the course of our members' daily trade, speaking to customers, particularly younger clientele from overseas and celebrities, it is without a doubt that we can report that this single aspect of the Lockout Laws is seen as being the most divisive and oppressive: without a shadow of a doubt, it is this component of the Lockout Laws which is criticised so vociferously by the patrons of licensed premises.

We acknowledge that a concession was granted for venues that could demonstrate an orientation towards live music, whereby the Lockout Laws are extended until 2:00am and last drinks until 3:30am.

Similarly, there have been numerous examples of venues opting to cease selling liquor from 1:30am, but keeping the gaming rooms open, in order to obtain an exemption to the 1:30am lockout.

However, it is the CNLA's view that the 1:30am lockout is the key item that needs to be repealed in order for Sydney to regain its reputation as a fun, vibrant, diverse and international city.

We see the impact of the 1:30am lockouts being that after 1:30am patrons who have decided to travel into the City either decide to:

- remain in a licensed premises, simply because they cannot go to another City venue;
- remain in public areas, aimlessly, because they are unable to enter the majority of City venues; or
- make their way to venues outside the Kings Cross or Sydney CBD Entertainment Precincts.

The social injustice of the 1:30am lockout is that there is no discretion afforded to venues: it does not matter whether the potential patrons have had no drinks, recently finished work or are not otherwise intoxicated; no entry simply means that at 1:30am, your night in the City is over.

The CNLA acknowledges that the idea of lockouts can have a strategic purpose. This is when they are implemented in a localised community to achieve a specific goal, such as the prevention of noise disturbance to local residents from patrons migrating between venues or, as often occurs in the United Kingdom, preventing rival football fans from converging on licensed premises pre-match.

However, the continued operation of the 1:30am lockouts in Sydney seems completely out of step with the Government's desire to recapture and re-invigorate the Sydney NTE.

If the Government is serious about re-establishing Sydney on the international stage, then artificial legislative restrictions such as the 1:30am lockout need to be abolished.

**Recommendation #11**

The 1:30am lockout be revoked.

(b) **Restriction on rapid consumption drinks**

The CNLA has no objection, in principle, to some restrictions being imposed on the sale of rapid consumption drinks, like highly alcoholic liqueurs served in a shot glass.

We dispute that midnight is the appropriate hour and would suggest a later hour.

However, our greatest concern is that the Lockout Laws cover fine whiskeys, digestives and after dinner drinks which, although having a high concentration of alcohol, could not and should not be considered in the same category as a rapid consumption shot.

Our members report to us that all too often patrons after midnight request an expensive glass of fine scotch whiskey on ice, only to be told that it needs to be mixed with cola. The response from the customers, particularly international visitors, is palpably negative.

**Recommendation #12**

The ban on shots and rapid consumption drinks after midnight be repealed.

(c) **Liquor Freeze since 2008**

There has been a prohibition in certain areas of the City on:

- the grant of new licences, particularly hotels, general bars and bottle shops;
- obtaining development consent to extend trading hours or expand the operation of a hotel;
- lodging an application to extend trading hours; or
- lodging an application to change a licensed boundary (with some exceptions).

That freeze was recently extended on 1 June 2019 for a further 12 months (expiring on 1 June 2020).

While the CNLA acknowledges that the Government has permitted small bars as a new form of licence and allowed venues with a focus on public entertainment to be excluded from the freeze, this prohibitive legislation has now been in place for some 11 years.

The CNLA understands and accepts that in some parts of the City, there was an over saturation of licenced premises. In our view, given the accumulative effect of the freeze and the Lockout Laws, many licenced premises in the City have since ceased trading.

To illustrate this point, a report by Land and Property Information for the Land Valuation Advisory Group about Potts Point/Kings Cross land value prepared in about 2015, finds that “Since the introduction of the lock-out laws, there has been a decrease in the level of commercial rents achieved for the retail/commercial component of properties in the locality compared to the rents paid prior to the introduction of the legislation.” The report goes on to say that “foot traffic and patronage to these areas has fallen significantly coinciding with the closure of a number of venues, bars, restaurants and hotels.”

The report concludes that “Kings Cross and Potts Point are currently in the process of gentrification. As the late night entertainment trade has decreased there has been demand by developers to convert properties to primarily residential mixed use. It is envisaged that as the locality undertakes further gentrification, the demand for high-class retail/commercial will increase. It is expected that this will provide support services for the residential component, resulting in commercial rents recovering.”

When the redevelopment of a building occurs, this is a permanent change; it is not infrastructure that can be easily reversed if and when the Lockout Laws are repealed or substantially relaxed.

While the CNLA has no doubt that some venues which have ceased trading could re-open, for the most part, using Kings Cross again as an example, that area has been so substantially transformed that it is unlikely there could again be an oversaturation of licensed premises.

The Joint Select Committee would know that, in most cases, for a new hotel, general bar or restaurant to open, development consent and a liquor licence (either a new grant or removal) is required. The approval or refusal of those applications are dependent upon a merit-based assessment by Council and the Independent Liquor and Gaming Authority. We believe there is sufficient statutory protection in place under the Environmental Planning and Assessment Act and the Liquor Act to obviate the need for the freeze legislation to continue. The CNLA submit that there is ample opportunity to regulate the opening of a new venue or expansion of an existing licensed premises based on individual applications, rather than a blanket prohibition.

Furthermore, there is substantial commercial and residential development being undertaken in the City. In conjunction with this, the City of Sydney Council has adopted a new Late Night Development Control Plan regulating trade in the City. The CNLA

believes that for Sydney to look progressive internationally, be open to development and investment, the freeze legislation should be repealed forthwith.

**Recommendation #13**

The liquor freeze legislation be repealed in its entirety.

**(d) ID Scanning**

ID scanning was implemented in the Kings Cross Precinct, only, in July 2014.

ID scanning does not directly affect licenced premises in the CNLA area, but we are aware that this is an option supported by the Police and which will undoubtedly form part of the Joint Review Panel's discussions.

In short, CNLA does not support ID scanning, whether in the Kings Cross Precinct, and certainly not being extended into the CNLA area.

We understand that the Police state that ID scanning is a useful tool for identifying offenders and is also a means to exclude persons the subject of long-term or short-term banning orders. We certainly question how effective the detection of persons with banning orders has been in preventing crime versus deterring patrons from attending the Kings Cross Precinct.

However, we urge the Joint Select Committee to exercise extreme caution before considering expanding the use of ID scanners to licenced premises throughout the City.

Issues with ID scanning include:

- older patrons who are clearly of legal age not having any form of identification, meaning they cannot gain admission to a licenced premises;
- different forms of identification from international visitors not meeting scanning requirements;
- overseas patrons not wanting to walk around the streets with their passports and not having sufficient identification to gain entry;
- invalid forms of ID for persons clearly of legal age; and
- a general aversion to providing personal details just to enjoy a meal or drink in a designated "high risk venue" in the City after 9:00pm.

Again, if it is the Government's intention to recapture and re-invigorate the Sydney NTE, expanding the use of ID scanners would be the type of restriction which would greatly impede the City prospering.

**Recommendation #14**

Compulsory ID scanning be revoked in its entirety or, at the very least, not extended into the Sydney CBD Entertainment Precinct.

**(e) Illicit Drugs**

The point has been made that 3:00am (or 3:30am at some venues) last drinks does not mean that the venue needs to close. It could, for example, remain open offering live music, but patrons would not be able to consume liquor.

In the CNLA's view, such a practice is not financially viable. However, the key social reason why such a practice is dangerous is due the prevalence of illicit, so-called party drugs, which are, unfortunately, widely available in Sydney for relatively cheap prices.

The CNLA would not support live music venues operating for long periods after liquor has ceased being served because of the problem of illicit drug use and dealing, both of which come with elevated risks of social, psychological and physical harm, as well as violent behaviour.

**Recommendation #15**

It would be dangerous to encourage a licensed premises to operate as a live music venue without the service of liquor due to the wider problems associated with illicit drug use.

**(f) 2016 Callinan Report**

We have read the September 2016 Callinan Report which was a technical review undertaken to determine whether the Lockout Laws remained appropriate for securing the policy objectives.

We acknowledge the terms of reference of the current Parliamentary enquiry are different to those identified in the Callinan Report. However, the current terms do require consideration of the existing regulatory arrangements and whether they remain appropriately balanced.

Succinctly, if the Government wants the public to return to the City, particularly later in the evening, the Lockout Laws need to be repealed or, at least, substantially relaxed.

Otherwise, in our view, the public will not return, Sydney's NTE will not develop and businesses will continue to close, with further jobs being lost.

**Enhance Sydney's NTE**
**(a) Live Music**

2016 saw a small relaxation of the Lockout Laws for hotels that applied for a live music exemption.

A modest number of exemptions have been granted, but even this has not assisted the decline in the City's live music.

The Live Music Office in February 2016 reported:

Venues with a Live Artist Performance Licence – All Premises

- 40% overall decline on the value of door charge receipts;
- 15% overall decrease in the value of venue expenditure and live artist performers.

Venues with a Live Artist Performance Licence – Hotels, Bars and Nightclubs

- 32% decrease in the value of door charge receipts;
- 17% decrease in the value of venue expenditure on live artist performers.

Venues with a Recorded Music for Dance Use Licence – All Premises

- 19% decrease in attendance figures across all venues.

Following this, the November 2018 Legislative Council Parliamentary Enquiry into the music sector in NSW reported four key findings, of which the following two are crucial to Sydney's NTE:

- that NSW has a music venue crisis, the causes of which are complex, but it is impacting negatively on the grassroots music scene in NSW, and on the national and regional touring circuits;
- that the Committee found no research available that suggested that music causes violence. In fact, the majority of the evidence the Committee receives suggested that music assists in preventing violence.

It would, therefore, seem that the small relaxation to the Lockout Laws have not in fact had any positive effect on Sydney's ailing live music scenes.

Importantly, the Parliamentary Enquiry Chair's Foreword commenced: "Music, particularly contemporary music, continues to play a vital role in the economic and social vitality of New South Wales. However, this sector has traditionally been neglected by governments, and as a result the contemporary music ecosystem in New South Wales appears to be slowly disintegrating."

The CLNA sees it as critical that all efforts are taken by the Government to remove the obstacles to promoting live music, the key one, in our view, being the repeal of the Lockout Laws.



**Recommendation #16**

The Government take all available steps to arrest the slide of live music in NSW, but particularly, in the City; one key step being to repeal the Lockout Laws.

(b) **Sydney's NTE**

We appreciate that Sydney's NTE is not comprised solely of licensed premises.

However, we think it undeniable that licensed premises are integral to all the components of a genuine NTE that is to cater for all members of the public.

The Deloitte report "Imagine Sydney" 2019 identifies that Greater Sydney's NTE is currently estimated to be \$27.2 billion, with \$15.7 billion from the food sector, \$7.1 billion from the entertainment sector and \$4.4 billion from the drink sector.

As at 2017, Greater Sydney's NTE accounted for 234,000 jobs, with 152,000 in the food sector, 49,000 in the entertainment sector and 33,000 in the drink sector.

However, presently Australia's NTE sits at 3.8% of the Nation's economy, whereas the United Kingdom's NTE sits at 6% of their economy – with sensible planning and foresight, there is a potential to increase Greater Sydney's NTE turnover by \$16.1 billion to \$43.3 billion.

Deloitte identifies that in order to do this, the following needs to be undertaken:

- Increasing business potential;
- Creating a platform for artistic creation;
- Sustaining visitor growth and cultural tourism;
- Creating economic opportunity;
- Creating jobs;
- Building community relationships; and
- Taking examples from overseas cities in how to develop Sydney's NTE.

Deloitte considers that while safety and security is important, it is equally important to think beyond this in a way which is innovative and strategic.

The CNLA agrees with this approach and supports Deloitte's recommendation to move the discussion away from how to regulate a drinking culture to how the Sydney NTE can be improved to create a strong social environment and urban culture.

The CNLA believes that this goes hand in hand with our recommendation of repealing the Lockout Laws and that a venue's compliance history and business model should be the key criteria to determining its trading hours.

We believe, in turn, that this will allow only proven responsible operators to contribute to and assist the diversification, revitalisation and development of Sydney's NTE by offering ancillary and leading roles in the choice of entertainment and commercial offerings to be developed in the City.

(c) **City of Sydney Councils Late Night DCP 2019**

From February to April 2018, the City of Sydney Council undertook community engagement to review the rules that control trading hours of all form of venues and shops in the City – some of which were the subject of the Lockout Laws.

This community engagement saw nearly 10,000 people respond, with the results being compiled into six themes:

- Very little demand to reduce the size of late-night trading areas;
- Strong appetite to increase trading hours for businesses (venues and shops);
- Strong support for increased diversity of late-night businesses, but less support for more (as in, additional) pubs and nightclubs;
- People want more late-night activity near where they live, not just where they visit;
- There was a difference in views between differing age groups; and
- Strong demand for increased late-night activity around Green Square.

To its credit, City of Sydney Council moved on the results of this consultation rather quickly, resulting in the approval of changes to Council's Late-Night Trading Development Control Plan, passed in May 2019.

While many of the amendments encourage a 24-hour city by the removal of obstacles preventing shops trading later, relevant to this submission, the amendments specifically:

- Create a 24-hour City centre between Darling Harbour, Hyde Park, Central Station and the Rocks, with the aim of reducing issues of crowding, queuing and noise in existing hot spots;
- Extend trading hours for unlicensed shops, encouraging a wider variety of people to attend the City throughout the night for different activities, with the aim of creating a safer and more balanced night time economy; and

- Allowing dedicated performance venues of up to 250 patrons an additional hour of trading on a trial basis.

City of Sydney Council is to be commended for its determination to implement the long-term development of Sydney's NTE, with the overarching goal of increasing the City's night-time turnover and jobs by 2030.

The CNLA supports City of Sydney Council's development of Sydney's NTE because we share its vision is to:

- develop a genuine late-night international city that is creative and diverse;
- rewards positive business behaviour; and
- offer something for everyone,

without undue and counter-productive regulation.

## **Conclusion**

We thank the Joint Select Committee for the opportunity of making this submission.

Should the Joint Select Committee require further information, please contact the CNLA.

Yours faithfully

**CITY NORTH LIQUOR ACCORD**