

**Supplementary
Submission
No 783a**

SYDNEY'S NIGHT TIME ECONOMY

Organisation: NSW Small Business Commission

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OUT19/9344

The Hon Natalie Ward MLC
Committee Chair
Joint Select Committee on Sydney's night time economy
By email: NightTimeEconomy@parliament.nsw.gov.au

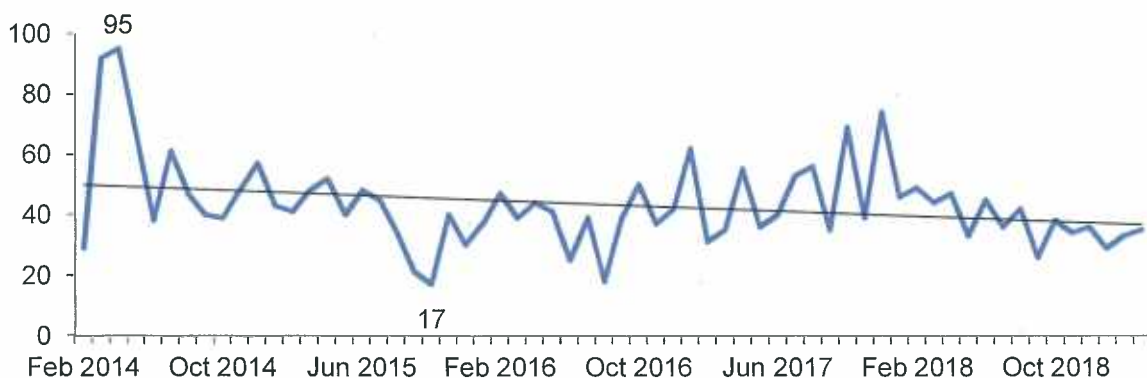
Dear Ms Ward

JOINT SELECT COMMITTEE ON SYDNEY'S NIGHT TIME ECONOMY – SUPPLEMENTARY SUBMISSION

Since lodgement of our primary submission, the NSW Small Business Commission (NSWSBC) has received data relating to incidents of precinct banning orders from the NSW Bureau of Crime Statistics and Research (BOCSAR) (see **Table 1**). As a result, we provide this supplementary submission for the Committee's consideration. This data includes both temporary and long-term banning orders issued in the Kings Cross and Sydney CBD Entertainment Precincts. It highlights that the number of banning orders issued in the two precincts is relatively low – particularly in light of the annual costs the regulation imposes on businesses.

From February 2014 to March 2019, there were 2,688 precinct banning order incidents across the two precincts - with an average of 43 per month, a high of 95, and a low of 17 (see **Figure 1**).

Figure 1: Precinct banning order incidents by month (Feb 2014 - Mar 2019)



Year-on-year, the average number of banning order incidents was 524, with a peak of 656 (see **Figure 2**). By comparison, 1,531 banning orders were issued in Brisbane's Fortitude Valley night precinct in 2016 alone.¹

Figure 2: Number of precinct banning orders per year (Feb - Jan)

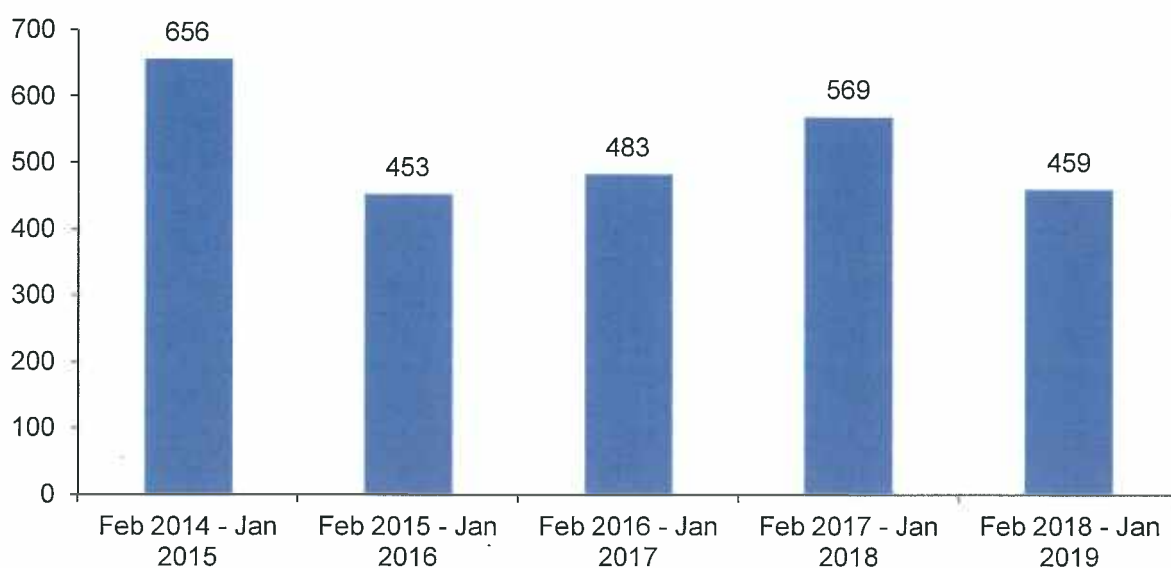


Table 1: Precinct banning order incidents by month (Feb 2014 - Mar 2019)
 Source: NSW Bureau of Crime Statistics and Research

Month	No.	Month	No.	Month	No.
Feb 2014	29	Feb 2016	47	Feb 2018	49
Mar 2014	92	Mar 2016	39	Mar 2018	44
Apr 2014	95	Apr 2016	44	Apr 2018	47
May 2014	67	May 2016	41	May 2018	33
Jun 2014	38	Jun 2016	25	Jun 2018	45
Jul 2014	61	Jul 2016	39	Jul 2018	36
Aug 2014	47	Aug 2016	18	Aug 2018	42
Sep 2014	40	Sep 2016	39	Sep 2018	26
Oct 2014	39	Oct 2016	50	Oct 2018	38
Nov 2014	48	Nov 2016	37	Nov 2018	34
Dec 2014	57	Dec 2016	42	Dec 2018	36
Jan 2015	43	Jan 2017	62	Jan 2019	29
Feb 2015	41	Feb 2017	31	Feb 2019	33
Mar 2015	48	Mar 2017	35	Mar 2019	35
Apr 2015	52	Apr 2017	55		
May 2015	40	May 2017	36		
Jun 2015	48	Jun 2017	40		
Jul 2015	45	Jul 2017	53		
Aug 2015	34	Aug 2017	56		
Sep 2015	21	Sep 2017	35		
Oct 2015	17	Oct 2017	69		
Nov 2015	40	Nov 2017	39		
Dec 2015	30	Dec 2017	74		
Jan 2016	37	Jan 2018	46		

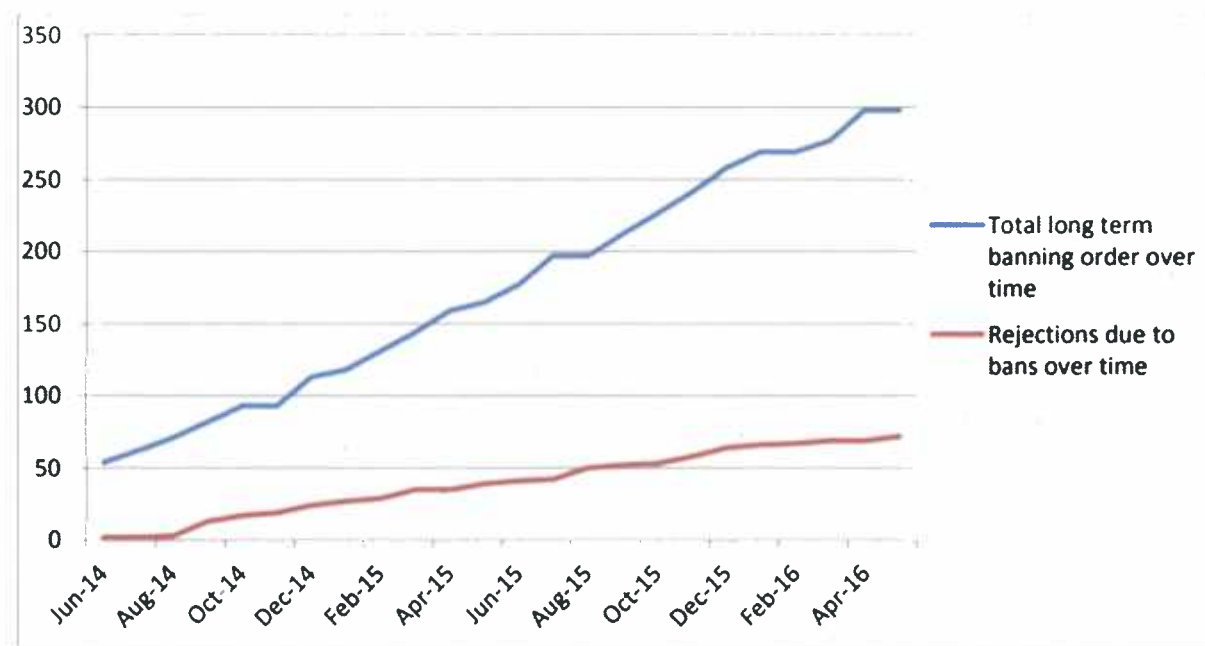
Types of banning order issued

The banning order data provided by BOCSAR did not provide a break down by the type of ban issued. However, data published in Liquor & Gaming NSW's *Kings Cross ID Scanner Review (2016)*² suggests that temporary banning orders are issued at more than twice the rate of long-term banning orders. From June 2014 to May 2016, nearly 1,000 banning orders were issued in total, with 300 long-term bans issued over this same period (see **Figure 3**).

As temporary banning orders expire after 48 hours,³ it follows that over two thirds of persons subjected to a banning order are free to enter ID scanning venues in prescribed precincts just two days later.

We note also that persons subjected to both temporary and long-term banning orders may enter any venue outside the 27 businesses currently classed as 'high risk' in Kings Cross. This gives rise to further doubts as to the impact of the scheme.

*Figure 3: Number of long term banning orders and denials due to banning orders since the introduction of the scanners*⁴



Enforcement of banning orders

The requirement that targeted venues in the Kings Cross Entertainment Precinct operate ID scanners was introduced, in large part, to aid the enforcement of banning orders.⁵ This requirement came into force in June 2014. However, Liquor & Gaming's *Kings Cross ID Scanner Review* provides that a mere 73 IDs were rejected at licensed premises, on the basis that the person was subject to a long-term banning order, from June 2014 to May 2016.⁶

Moreover, as our principal submission highlights, very few patrons have been found guilty in court of breaching of long-term banning orders.⁷

The cost to business

The NSW SBC's industry engagement suggests that the cost per business per annum of maintaining an ID scanner is between \$100,000 and \$120,000. At present, 27 venues are deemed 'high risk' in the Kings Cross Entertainment Precinct⁸ - and so must maintain an ID scanner. Assuming these businesses were operating for the full period of time that the requirement has been in place, they have borne an approximate cost of between \$13.05 million and \$15.66 million – or between \$4,553 and \$5,464 per banning order issued.⁹

Similarly, the Kings Cross Liquor Accord estimates that the total cost to members of the ID scanning regime is \$10 million since its implementation in June 2014. Using this estimate, the cost per banning order is \$3,489 per business.

Plainly, these are significant costs. But as the BOCSAR and Liquor & Gaming NSW data explored in this submission provides, they have not delivered significant returns. At the very least, this data gives rise to significant concern as to any suggestion that the regime be extended. Indeed, as outlined in our primary submission, it is our firm position that the ID scanning regime should be wound back in multiple respects.¹⁰

For queries regarding this supplementary submission, please contact Thomas Mortimer, Senior Advisor, Advocacy and Strategic Projects, on

Yours sincerely

Robyn Hobbs OAM
NSW Small Business Commissioner
3 July 2019

¹ The Conversation (9 March 2017), [Banning orders won't solve alcohol-fuelled violence – but they can part of the solution](#).

² Liquor & Gaming NSW (2016), [Kings Cross ID Scanner Review](#)

³ *Liquor Act 2007* (NSW), s116F

⁴ *Ibid.*, Figure 3

⁵ NSW Legislative Assembly Hansard (20 February 2013), '[Liquor Amendment \(Small Bars\) Bill 2013: Second Reading](#)', p. 2

⁶ *Ibid.*, p. 19.

⁷ NSW Small Business Commission (2019), '[Submission – Joint Select Committee on Sydney's night time economy](#)', pp. 29-30

⁸ *Liquor Regulation 2018* (NSW), Schedule 3, Part 1

⁹ Calculated as (with same methodology for both estimates provided):

27 (high risk venues) × \$100,000 (estimated cost, lower bound) ×

4.8333 (number of years ID scanner compliance costs incurred, June 2014 to March 2019) =

\$13.05 million

Then divided by the number of banning orders issued over total period for per order cost.

¹⁰ NSW Small Business Commission (2019), '[Submission – Joint Select Committee on Sydney's night time economy](#)', pp. 29-30