



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO. 1

Alcohol Consumption in Public Places (Liberalisation) Bill 2024

Report 64

September 2024

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Portfolio Committee No. 1 - Premier and Finance

Alcohol Consumption in Public Places (Liberalisation) Bill 2024

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Alcohol Consumption in Public Places (Liberalisation) Bill 2024

"September 2024"

Chair: Hon Jeremy Buckingham MLC



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Terms of reference

1. That:
 - (a) the Alcohol Consumption in Public Places (Liberalisation) Bill 2024 be referred to Portfolio Committee No. 1 – Premier and Finance at the conclusion of the mover's second reading speech in the Council, and
 - (b) the committee report by 20 September 2024.

The terms of reference were referred to the committee by the Legislative Council on 18 June 2024.¹

¹ *Minutes*, NSW Legislative Council, 18 June 2024, p 1252.

Committee details

Committee members

Hon Jeremy Buckingham MLC	Legalise Cannabis Party	<i>Chair</i>
Hon Robert Borsak MLC	Shooters, Farmers and Fishers Party	<i>Deputy Chair</i>
Hon Sarah Kaine MLC	Australian Labor Party	
Hon Stephen Lawrence MLC	Australian Labor Party	
Hon Jacqui Munro MLC*	Liberal Party	
Hon Bob Nanva MLC	Australian Labor Party	
Hon Chris Rath	Liberal Party	
Hon John Ruddick MLC**	Libertarian Party	

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* The Hon Jacqui Munro MLC substituted for the Hon Damien Tudehope MLC on 1 August 2024 for the duration of the inquiry.

** The Hon John Ruddick MLC is a participating member from 19 June 2024 for the duration of the inquiry.

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Verity Smith, Principal Council Officer

Samantha Jeffery, Administration Officer

Chair's foreword

The Alcohol Consumption in Public Places (Liberalisation) Bill 2024 was introduced in the House on 5 June 2024 by the Hon John Ruddick MLC. It was subsequently referred to this committee on 18 June 2024 for inquiry and report.

The purpose of the bill, as set out in clause 3, is to 'limit the prohibition and regulation of the consumption of alcohol in public places'. This inquiry explored how the bill seeks to provide a general right to consume alcohol in a public place. The committee heard from a diverse range of stakeholders, including councils, NSW Government, the legal sector, and services committed to minimising harm from alcohol and other drugs, about what outcomes could be expected from the enactment of the bill, particularly in relation to problematic alcohol consumption and undesirable behaviour in public places.

In addition, a number of inquiry participants provided compelling reasons as to why local councils are well placed to make the decisions about public alcohol restrictions for their local areas. Other stakeholders explained some of the legal complexities that could arise from the bill should it pass in its current form.

The committee is grateful to the various stakeholders who participated in the inquiry and aided the committee in its detailed consideration of the bill. These contributions were invaluable and provided a broad perspective of the relevant issues.

I would also like to thank my fellow committee members for their thoughtful input into the inquiry.

The committee refers the bill back to the House for its consideration and recommends that the concerns raised by stakeholders be addressed during debate.

Hon Jeremy Buckingham MLC

Committee Chair

Recommendations

Recommendation 1

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That the Legislative Council proceed to debate the Alcohol Consumption in Public Places (Liberalisation) Bill 2024, and that the concerns identified by stakeholders as set out in this report be addressed during debate in the House.

Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 18 June 2024.

Throughout the course of this inquiry the committee received 11 submissions.

The committee received five responses to an online questionnaire.

The committee also held one public hearing at Parliament House in Sydney on 12 August 2024.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, and answers to questions on notice.

Chapter 1 Overview of the Alcohol Consumption in Public Places (Liberalisation) Bill 2024

This chapter provides an overview of the Alcohol Consumption in Public Places (Liberalisation) Bill 2024, including its provisions and referral for inquiry and report.

Referral of the Alcohol Consumption in Public Places (Liberalisation) Bill 2024

- 1.1 The Alcohol Consumption in Public Places (Liberalisation) Bill 2024 (the bill) is a private member's bill introduced to the Legislative Council by Hon. John Ruddick MLC on Wednesday 5 June 2024.
- 1.2 On 18 June 2024, the bill was reviewed by the Selection of Bills Committee. On tabling of the committee's report, the Legislative Council recommended that the bill be referred to Portfolio Committee No. 1 – Premier and Cabinet for inquiry and report, with the reporting date set for 20 September 2024.

Current regulation of the consumption of alcohol in public

- 1.3 Under Chapter 16 of the *Local Government Act 1993*, local councils are able to establish a specific 'public place' as an 'alcohol free zone' or an 'alcohol prohibited area'.² Alcohol free zones apply to roads and car parks and alcohol prohibited areas apply to any other public place.³ The Act also allows police or other enforcement officers to seize and dispose of any alcohol consumed in these areas.⁴
- 1.4 Other statutory bodies are able to restrict or prohibit the consumption of alcohol in specific locations over which they have authority, e.g. Sydney Olympic Park Authority, National Parks NSW.⁵
- 1.5 In his second reading speech, Mr Ruddick criticised the current restrictions on the consumption of alcohol in public places, and advocated for change to allow Sydney to be a more desirable and vibrant place for residents and tourists⁶.

² See Chapter 16, Parts 2 and 4, and *Local Government Act 1993* (NSW).

³ *Local Government Act 1993*, s 632A(4). Public place is defined in the Act's Dictionary.

⁴ See Chapter 16, Parts 2 and 4, and *Local Government Act 1993* (NSW).

⁵ See regulation 9, *Sydney Olympic Park Authority Regulation 2018* (NSW) and regulation 16, *National Parks and Wildlife Regulation 2019* (NSW).

⁶ *Hansard*, NSW Legislative Council, 5 June 2024, p 11 (John Ruddick).

Purpose and key provisions of the bill

- 1.6** The bill's stated purpose is to 'limit the prohibition and regulation of the consumption of alcohol in public places in NSW'⁷. It seeks to provide a right for individuals to consume alcohol in public places, and to override local government control on alcohol prohibitions.⁸
- 1.7** Clause 7 establishes the 'right' to consume alcohol by declaring: 'A person does not commit an offence under an Act or law related to the person's consumption of alcohol in a public place'⁹. This clause operates in conjunction with clause 6, which asserts that the Act 'prevails to the extent of an inconsistency with another Act or law unless otherwise provided for by this Act'¹⁰. Taken together, these two clauses are intended to nullify any prohibitions on the consumption of alcohol contained in other Acts, such as can be established under Chapter 16 of the *Local Government Act 1993*.
- 1.8** Clause 8 removes the ability for alcohol to be confiscated when in the possession of a person who is in a public place¹¹. However, this section does not apply if the person is subject to a direction under the *Law Enforcement (Powers and Responsibilities) Act 2002*, Part 14¹².
- 1.9** The bill includes two further 'exceptions' in clauses 9 and 10. Clause 9 establishes that the protections established in clauses 7 and 8 'do not apply to a public place declared by the regulations to be a place of cultural or religious significance'¹³. 'War memorial' and 'place of worship' are listed as examples.
- 1.10** Clause 10 provides an exception for intoxicated and disorderly conduct¹⁴. It proposes that police officers retain their powers to give directions or move people on¹⁵, and that the offence of continuing intoxicated and disorderly behaviour following a move on direction would continue to have effect¹⁶.

⁷ Clause 3, Alcohol Consumption in Public Places (Liberalisation) Bill 2024.

⁸ *Hansard*, NSW Legislative Council, 5 June 2024, p 10 (John Ruddick).

⁹ Clause 7, Alcohol Consumption in Public Places (Liberalisation) Bill 2024.

¹⁰ Clause 6, Alcohol Consumption in Public Places (Liberalisation) Bill 2024.

¹¹ Clause 8, Alcohol Consumption in Public Places (Liberalisation) Bill 2024.

¹² Part 14 confers powers on the police to give directions to a person or group of persons in a public place under certain circumstances, or to 'move on' a person who is intoxicated.

¹³ Clause 9, Alcohol Consumption in Public Places (Liberalisation) Bill 2024.

¹⁴ Clause 10, Alcohol Consumption in Public Places (Liberalisation) Bill 2024.

¹⁵ Under the *Law Enforcement (Powers and Responsibilities) Act 2002*, Part 14.

¹⁶ Under *Summary Offences Act 1988*, section 9.

Chapter 2 Key issues

This chapter considers key issues identified by stakeholders in relation to the Alcohol Consumption in Public Places (Liberalisation) Bill 2024. These issues include the likely impact on public behaviour should the restrictions on the public consumption of alcohol be removed, the mechanisms that remain for authorities to address undesirable behaviour, and how different groups of people using public space experience enforcement mechanisms. This chapter also considers what level of government is best placed to regulate the consumption of alcohol in public. Finally, this chapter notes the concerns of some stakeholders about the way in which the bill is drafted.

For simplicity, the term 'public alcohol restrictions' is used in this chapter to include all areas that have a prohibition or restriction on the public consumption of alcohol, including both alcohol free zones and alcohol prohibited areas.¹⁷

Current restrictions on the public consumption of alcohol

2.1 Local Government NSW explained that 'there is a misconception that alcohol is prohibited in all parks and public places'.¹⁸ They clarified the existing general freedom to consume alcohol in public places, and the process in which restrictions can be imposed:

It is important to acknowledge that in most parks and outdoor public places across NSW it remains perfectly legal to responsibly consume alcohol. In a limited number of cases, councils and other public land holders have consulted with their communities to determine where outdoor alcohol restrictions may be appropriately applied, and in many cases the restriction applies only overnight, or during special events.¹⁹

2.2 When questioned about the current number of alcohol-free zones in New South Wales, Local Government NSW responded that there is 'no central register of outdoor alcohol restrictions', and stated that they are not aware of the number of restrictions across NSW.²⁰

The effect of removing restrictions on the public consumption of alcohol

2.3 Throughout the inquiry, a number of stakeholders outlined the changes to public behaviour that could be expected to flow from the bill and examined the likely benefits and harms of these.

2.4 When questioned whether the bill was likely to lead to a general increase in the consumption of alcohol, Mr Robert Taylor, Manager, Policy and Engagement, Alcohol and Drug Foundation, explained that the removal of public alcohol restrictions could be expected to lead to generally increased consumption of alcohol due to greater accessibility and normalisation of the

¹⁷ Other terms used by inquiry participants include 'outdoor alcohol restrictions' and 'alcohol prohibited zones': Submission 2, Local Government NSW; Submission 11, NSW Government.

¹⁸ Answers to questions on notice, Mr David Reynolds, Chief Executive, Local Government NSW, 10 September 2024, p 1.

¹⁹ Answers to questions on notice, Mr David Reynolds, p 2.

²⁰ Answers to questions on notice, Mr David Reynolds, p 2.

consumption of alcohol.²¹ Nonetheless, multiple witnesses agreed that there is limited evidence about the particulars of the connection between public alcohol restrictions and the consumption of alcohol, both generally as well as in public, and welcomed further research.²²

2.5 A number of witnesses addressed the perceived benefit of being able to consume alcohol in public more freely. For example, the Libertarian Party highlighted the positive aspects of more freedom to consume alcohol in public, and reflected that 'many people enjoy having a drink'.²³ Mr Humphreys, founder of the Libertarian Party, opined, 'If someone is drinking happily without any negative social consequence from that drinking, we should put that in the benefit column of improving the quality of that person's life'.²⁴

2.6 The NSW Council of Civil Liberties posited that it is a matter of valuing individual liberty and expressed concern about the impact of alcohol-free zones on freedom and civil liberties.²⁵ Mr Timothy Roberts, Secretary, NSW Council of Civil Liberties, queried the purpose of restricting drinking in the first place:

Generally, what's the purpose of restricting you having a picnic with a friend and drinking alcohol responsibly? What's the societal problem there, and what is the purpose of preventing that from happening? In our view, it shouldn't be.²⁶

Impact on 'problematic' drinking

2.7 Inquiry participants varied in their view as to whether greater consumption of alcohol in public would result in increased harmful or problematic drinking. The Libertarian Party was optimistic that instances of problematic drinking would not rise and instead may decline, referring to the example of the 'Alcohol in Parks Program', a 'public drinking pilot' in Vancouver, Canada.²⁷ Mr Clifford Jennings, Senior Advisor to the Hon John Ruddick MLC, Libertarian Party, highlighted that following the commencement of the Alcohol in Parks Program, 'their binge-drinking culture decreased by about eight per cent'.²⁸

2.8 Conversely, the Alcohol and Drug Foundation and the Network of Alcohol and Other Drugs Agencies raised concerns about alcohol related harms that could stem from greater alcohol

²¹ Submission 1, Alcohol and Drug Foundation, p 2, and Evidence, Mr Robert Taylor, Manager, Policy and Engagement, Alcohol and Drug Foundation, 12 August 2024, p 6.

²² For example, Evidence, Mr Taylor, 12 August 2024, p 6; Evidence, Mr Clifford Jennings, Senior Advisor to the Hon John Ruddick MLC, Libertarian Party, 12 August 2024, p 30; Evidence, Mr Timothy Roberts, Secretary, NSW Council for Civil Liberties, 12 August 2024, p 20 and Evidence, Mr Josh Pallas, Past President, NSW Council for Civil Liberties, p 20.

²³ Evidence, Mr John Humphreys, Chief Economist, Australian Taxpayers' Alliance, and Founder, Libertarian Party, 12 August 2024, pp 28-29.

²⁴ Evidence, Mr Humphreys, 12 August 2024, p 29.

²⁵ Evidence, Mr Pallas, 12 August 2024, p 20.

²⁶ Evidence, Mr Roberts, 12 August 2024, p 19.

²⁷ Submission 4, Libertarian Party, p 7, and Evidence, Mr Clifford Jennings, Senior Advisor to the Hon John Ruddick MLC, Libertarian Party, 12 August 2024, p 29.

²⁸ Submission 4, Libertarian Party, p 7, and Evidence, Mr Jennings, 12 August 2024 p 29. Details of what restrictions were removed under the pilot were not discussed.

consumption in public places.²⁹ While Mr Taylor cautioned that a general rise in alcohol consumption in and of itself leads to increased harm, he noted that there are particular risks of harm associated with the unrestricted drinking of alcohol in public.³⁰ He drew the committee's attention to the lack of management and monitoring mechanisms in public places:

...we have none of the usual RSA mechanisms to manage intoxication that we do within licensed venues or takeaway outlets, nor to monitor the supply of alcohol to people who may be vulnerable or intoxicated, including young people.³¹

- 2.9** Concerns were also raised that the increased drinking of alcohol in public may expand the exposure of young people to the consumption of alcohol.³² Mr Taylor warned that 'exposure to alcohol consumption in general leads to greater demand in young people'.³³
- 2.10** Mr Chris Keyes, Deputy Chief Executive Officer, Network of Alcohol and Other Drugs Agencies, similarly observed that exposure to alcohol consumption is 'a risk factor for young people later in life experiencing harms from alcohol'.³⁴

Likely impact on amenity and public safety

- 2.11** A number of witnesses discussed the possibility that public places may be negatively impacted by an increase in undesirable behaviour, should there be greater consumption of alcohol in public. The NSW Government referred to data from the NSW Police Force that showed a correlation between a decrease in violent offending and street offences in some areas and the location of alcohol free zones.³⁵ This was viewed as evidence of the effectiveness of public alcohol restrictions in ensuring safety.³⁶
- 2.12** Mr Taylor of the Alcohol and Drug Foundation agreed with the proposition that, while it was hard to determine the likely extent, it was probable that instances of disorderly conduct would increase should the bill be passed.³⁷
- 2.13** On a similar note, Mr Chris Keyes, Deputy Chief Executive Officer, Network of Alcohol and Other Drugs Agencies, referred to a survey of stakeholders conducted by the City of Sydney

²⁹ Submission 1, Alcohol and Drug Foundation, p 2, and Evidence, Ms Chris Keyes, Deputy Chief Executive Officer, Network of Alcohol and Other Drugs Agencies, 12 August 2024, p 2.

³⁰ Evidence, Mr Robert Taylor, Manager, Policy and Engagement, Alcohol and Drug Foundation, 12 August 2024, p 4.

³¹ Evidence, Mr Robert Taylor, Manager, Policy and Engagement, Alcohol and Drug Foundation, 12 August 2024, p 2.

³² See, for example, Submission 11, NSW Government, p 3; Evidence, Mr Robert Taylor, 12 August 2024, p 6, and Evidence, Ms Chris Keyes, Deputy Chief Executive Officer, Network of Alcohol and Other Drugs Agencies, 12 August 2024, p 2.

³³ Evidence, Mr Robert Taylor, Manager, Policy and Engagement, Alcohol and Drug Foundation, 12 August 2024, p 6.

³⁴ Evidence, Ms Chris Keyes, Deputy Chief Executive Officer, Network of Alcohol and Other Drugs Agencies, 12 August 2024, p 2.

³⁵ Submission 11, NSW Government, p 7.

³⁶ Submission 11, NSW Government, p 7.

³⁷ Evidence, Mr Taylor, 12 August 2024, p 6.

that revealed that 'the majority of respondents said that they would feel less safe if there was more drinking of alcohol in public spaces'.³⁸

- 2.14 The committee also heard that some community groups were concerned about the likelihood of an increase in 'alcohol fuelled hooliganism' in public places.³⁹

Mechanisms for managing behaviour in public places

- 2.15 Another issue to emerge was the role of public alcohol restrictions in managing alcohol-fuelled behaviour. This included questions around the availability of mechanisms for regulating and managing anti-social behaviour in public places should the bill pass.

- 2.16 Submissions from governing authorities advised that public alcohol restrictions are relied upon as a tool for managing alcohol use in public spaces.⁴⁰ The NSW Government was of the view that public alcohol restrictions play a critical role in managing major events.⁴¹ They also noted that the NSW Police Force does not support the removal of public alcohol restrictions.⁴²

- 2.17 In their response to the online questionnaire, Tweed Shire Council stressed that alcohol-free zones help maintain community safety during 'peak festivity and holiday periods'.⁴³

- 2.18 However, some submissions contended that outdoor alcohol restrictions in and of themselves are ineffective at managing alcohol related harm.⁴⁴ Many stakeholders, irrespective of whether or not they supported the bill, advocated for the adoption of a harm minimisation approach alongside any regulatory framework for the regulation of alcohol consumption.⁴⁵ The following harm minimisation approaches were suggested:

- NSW Council for Civil Liberties proposed that 'city and state government should consider evidence-based harm minimisation approaches which provide services and support to people who need them'.⁴⁶
- The Aboriginal Legal Service noted that the Office of Local Government had acknowledged that public alcohol restrictions 'are likely to be more effective when they

³⁸ Evidence, Ms Keyes, 12 August 2024, p 8.

³⁹ Evidence, Mr Peter Doukas OAM, Ethnic Communities Council of NSW Inc, 12 August 2024, p 15.

⁴⁰ Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Online questionnaire report* (2024), p 3 and Submission 11, NSW Government, p 1.

⁴¹ Submission 11, NSW Government, p 8.

⁴² Submission 11, NSW Government, p 1.

⁴³ Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Online questionnaire report* (2024), p 3.

⁴⁴ Submission 5, NSW Council for Civil Liberties, p 3, and Submission 8, Aboriginal Legal Service NSW/ACT, p 1.

⁴⁵ See, for example, Submission 5, NSW Council for Civil Liberties; Submission 1, Alcohol and Drug Foundation.

⁴⁶ Submission 5, NSW Council for Civil Liberties, p 3.

form part of a broader strategy including things like education, community programs and public place design'.⁴⁷

- The Alcohol and Drug Foundation and Network of Alcohol and other Drug Agencies supported health-based responses and community led responses.⁴⁸

2.19 A number of stakeholders argued that sufficient tools for the management of public places are already available through the 'drunk and disorderly' offence and 'move on directions'.⁴⁹

2.20 Legal Aid NSW described the power to issue a move on direction:

Under section 198 of LEPPRA⁵⁰ a police officer may give a direction to an intoxicated person who is in a public place to leave the place and not return for up to six hours if the person's behaviour: a) is likely to cause injury to any other person or persons, damage to property or otherwise give rise to a risk to public safety, or b) is disorderly.⁵¹

2.21 The Aboriginal Legal Service NSW/ACT were of the view that outdoor alcohol restrictions are not legally necessary, noting current police powers to regulate the use of public space.⁵² These include general move on powers even if a person is not visibly intoxicated, when 'the person's presence or behaviour in the place is obstructing another person or traffic, constitutes harassment or intimidation, is likely to cause fear to another person, or is supplying or procuring drugs'.⁵³

2.22 The Aboriginal Legal Service NSW/ACT further drew the committee's attention to the current power under section 206 *Law Enforcement (Powers and Responsibilities) Act 2002* for police to detain intoxicated people:

Police are also able to detain persons who are intoxicated in public if they are behaving in a disorderly manner which could cause injury to a person or property or are in need of physical protection due to their state of intoxication.⁵⁴

Policing of people using public space

2.23 A number of witnesses voiced concern about the disproportionate impact the enforcement of public alcohol restrictions may have on groups of people who more frequently use public

⁴⁷ Submission 8, Aboriginal Legal Service NSW/ACT, p 2, quoting NSW Office of Local Government, *Alcohol free zones and alcohol prohibited areas*.

⁴⁸ Evidence, Mr Taylor, 12 August 2024, and Ms Keyes, 12 August, p 3.

⁴⁸ Evidence, Ms Keyes, 12 August 2024, p 2.

⁴⁹ Submission 5, NSW Council for Civil Liberties; Submission 8, Aboriginal Legal Service NSW/ACT and Submission 10, Legal Aid NSW.

⁵⁰ *Law Enforcement (Powers and Responsibilities) Act 2002*.

⁵¹ Submission 10, Legal Aid NSW, p 2.

⁵² Submission 8, Aboriginal Legal Service NSW/ACT, p 2.

⁵³ Section 197, *Law Enforcement (Powers and Responsibilities) Act 2002*, from Submission 8, Aboriginal Legal Service NSW/ACT, p 2.

⁵⁴ Submission 8, Aboriginal Legal Service NSW/ACT, p 2.

space.⁵⁵ The Aboriginal Legal Service NSW/ACT, Legal Aid NSW, and NSW Council for Civil Liberties highlighted that Aboriginal and Torres Strait Islander people, young people, and those experiencing homelessness are disproportionately subjected to police interventions when using public spaces.⁵⁶

- 2.24** These stakeholders were supportive of the reform of public alcohol restrictions as a way of minimising avenues for over-policing.⁵⁷

Determining the appropriate decision-maker

- 2.25** There was some discussion during the inquiry about whether it is more appropriate for local authorities to make decisions about public alcohol restrictions, due to their understanding of local requirements and considerations.

- 2.26** Stakeholders generally agreed that public alcohol restrictions are appropriate in some locations.⁵⁸ The bill allows for some level of regulation of alcohol consumption in public places through the exception in clause 9, which provides that the 'freedom of consumption of alcohol in public places' and 'limitations on confiscation of alcohol' would not apply to places declared by the regulations as public places of cultural or religious significance. The evidence did not explore what places, other than the examples listed, may fall within this exception. Many witnesses agreed that public alcohol restrictions would be generally appropriate in some other places, such as swimming pools and children's playgrounds.⁵⁹

- 2.27** A number of stakeholders argued that local authorities are best placed to decide whether to establish any restrictions based on their understanding of community preferences.⁶⁰ The NSW Government warned that the bill would implement 'a one-size-fits-all solution, which does not recognise the diversity of public spaces and communities across NSW'.⁶¹

- 2.28** Local Government NSW, the peak body for local councils, explained the benefits of the current system which takes advantage of local knowledge:

⁵⁵ Submission 8, Aboriginal Legal Service NSW/ACT; Submission 10, Legal Aid NSW; Evidence, Mr Roberts, 12 August 2024, p 19; Submission 7, Network of Alcohol and Other Drug Agencies, p1.

⁵⁶ Submission 8, Aboriginal Legal Service NSW/ACT, p 2; Submission 10, Legal Aid NSW, p 2; Evidence, Mr Roberts, 12 August 2024, p 19.

⁵⁷ Submission 8, Aboriginal Legal Service NSW/ACT, p 1; Submission 10, Legal Aid NSW, p 2; Evidence, Mr Roberts, 12 August 2024, p 19.

⁵⁸ Submission 1, Alcohol and Drug Foundation, p 2; Submission 2, Local Government NSW, p 3; Evidence, Mr Pallas, p 18; Submission 10, Legal Aid NSW, p 2; Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Online questionnaire report (2024)*, p 3.

⁵⁹ Evidence, Mr Pallas, 12 August 2024, p 18; Submission 10, Legal Aid NSW, p 2; Submission 11, NSW Government, p 9, Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Online questionnaire report (2024)*, p 3.

⁶⁰ Evidence, Mr Doukas, 12 August 2024, p 19; Submission 2, Local Government NSW, p 5; Submission 11; Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Online questionnaire report (2024)*, p 3.

⁶¹ Submission 11, NSW Government, p 5.

Councils, in close consultation with the communities, strive to achieve the right balance between individual freedoms, social inclusion and community amenity, vibrancy and safety. The considered placement of outdoor alcohol restrictions is an important tool in this task. Councils are democratically elected to give voice to and reflect the needs of their communities. Local knowledge and expertise is critical to this task.⁶²

- 2.29** Some submissions highlighted the move towards empowering councils to allow the creative and flexible use of public space for entertainment and hospitality through the NSW Vibrancy Reforms.⁶³ The NSW Government submitted that the NSW Vibrancy Reforms support 'more flexible licensing arrangements and use of outdoor space while maintaining restrictions on public alcohol consumption'.⁶⁴

Potential legal complexities arising from the bill

- 2.30** Various submissions expressed concern that the way in which the bill had been drafted would add unwelcome complexity to what they viewed as an already complicated framework of restrictions.⁶⁵ The Night Time Industries Association warned against the bill's 'regulatory and legislative inconsistencies' which may 'disadvantage or impact existing licensed venues through a more difficult compliance landscape'.⁶⁶
- 2.31** Legal Aid NSW described the existing public alcohol restrictions as 'piecemeal and inconsistent'⁶⁷ and cautioned against the unusual approach adopted by the bill which asserts that it overrides other legislation. They recommended that the various statutes over which the bill is intended to prevail be amended instead.⁶⁸
- 2.32** Some stakeholders contended that the definition of 'public place' in the bill may lead to unintended consequences in the application of the bill. For example, Local Government NSW noted that the definition of 'public place' does not include a road, unless recreational activities are permitted on the road, with the bill potentially not applying to some alcohol free zones as a result.⁶⁹
- 2.33** Others warned that the bill does not appropriately consider its interaction with other key pieces of legislation, for example, *Roads Act 1993*, *Local Government Act 1993* and the *Liquor Act 2007*.⁷⁰

⁶² Evidence, Mr Reynolds, 12 August 2024, p 9.

⁶³ Submission 3, Night Time Industries Association, p 2; Submission 11, NSW Government, p 8.

⁶⁴ Submission 11, NSW Government, p 8.

⁶⁵ Submission 3, Night Time Industries Association, p 3; Submission 10, Legal Aid NSW, p 1.

⁶⁶ Submission 3, Night Time Industries Association, p 2.

⁶⁷ Submission 10, Legal Aid, p 1.

⁶⁸ Submission 10, Legal Aid NSW, p 2.

⁶⁹ Submission 2, Local Government NSW, p 2.

⁷⁰ Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Online questionnaire report* (2024), p 3, and Submission 11, NSW Government, p 6.

- 2.34** While the Aboriginal Legal Service NSW/ACT broadly supported the reform of outdoor alcohol restrictions, they recommended that reform be pursued 'in a targeted manner through amendment to the *Local Government Act 1993*.⁷¹
- 2.35** A number of stakeholders suggested that legislative reform should also involve additional steps, such as the following:
- City of Sydney Council cautioned that a nuanced approach is required and urged further in-depth consultation before progressing⁷²
 - Night Time Industries Association recommended a pilot program in select local government areas⁷³
 - Legal Aid NSW recommended an education program aimed at enforcement officers, and the prompt removal of any expired signage.⁷⁴

Committee comment

- 2.36** This inquiry explored how the Alcohol Consumption in Public Places (Liberalisation) Bill 2024 would provide a general right to consume alcohol in a public place. The committee heard from a range of stakeholders, including councils, NSW Government, the legal sector, and services committed to minimising harm from alcohol and other drugs.
- 2.37** Stakeholders were divided about their level of support for the bill's aims, and generally did not support the bill in its current form. While legal services and civil society groups welcomed reform of public alcohol restrictions in general, reservations were expressed about the bill's method of reform.
- 2.38** The committee agrees with stakeholders that individual liberties need to be carefully balanced with protecting the amenity and safety of public places. We acknowledge the evidence from a range of stakeholders that explored the benefits of removing restrictions on the public consumption of alcohol. However, we also heard compelling reasons as to why local councils are well placed to make the decisions about public alcohol restrictions for their local areas.
- 2.39** We encourage local councils to consider closely whether public alcohol restrictions are effective and fairly managed. Harm minimisation should also be promoted through the adoption of health-first and community led responses to alcohol consumption. We further note that the public may benefit from easy-to-navigate and accessible information about the locations and details of any public alcohol restrictions.
- 2.40** Finally, we draw the attention of the House to the concerns of stakeholders about the possible complexities arising from the bill should it pass in its current form. In particular, the committee

⁷¹ Submission 8, Aboriginal Legal Service NSW/ACT, p 1.

⁷² Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Online questionnaire report* (2024), p 2.

⁷³ Submission 3, Night Time Industries Association, p 3. They particularly recommended measuring and assessing any impacts on neighbouring licensed venues.

⁷⁴ Submission 10, Legal Aid NSW, p 3.

acknowledges the preference of Legal Aid NSW that the various statutes over which the bill is intended to prevail be amended instead.

- 2.41** Accordingly, the committee refers the bill back to the House and recommends that it proceed to debate the Alcohol Consumption in Public Places (Liberalisation) Bill 2004, and that the concerns identified by stakeholders as set out in this report be addressed during debate in the House.

Recommendation 1

That the Legislative Council proceed to debate the Alcohol Consumption in Public Places (Liberalisation) Bill 2024, and that the concerns identified by stakeholders as set out in this report be addressed during debate in the House.

Appendix 1 Submissions

No.	Author
1	Alcohol and Drug Foundation
2	Local Government NSW
3	Night Time Industries Association
4	Libertarian Party
5	NSW Council for Civil Liberties
6	Name suppressed
7	Network of Alcohol and other Drugs Agencies (NADA)
8	Aboriginal Legal Service (NSW/ACT) Limited
9	Ms Lynda Newnam
10	Legal Aid New South Wales
11	NSW Government

Appendix 2 Witnesses at hearings

Date	Name	Position and Organisation
Monday 12 August 2024 Macquarie Room Parliament House, Sydney	Mr Robert Taylor	Manager, Policy and Engagement, Alcohol and Drug Foundation
	Ms Chloe Bernard	Senior Policy Officer, Alcohol and Drug Foundation
	Ms Chris Keyes	Deputy CEO, Network of Alcohol and Other Drug Agencies (NADA)
	Mr David Reynolds	Chief Executive, Local Government NSW
	Mr Peter Doukas OAM	Ethnic Communities Council of NSW Inc
	Mr Timothy Roberts	Secretary, NSW Council for Civil Liberties
	Mr Josh Pallas	Past President, NSW Council for Civil Liberties
	Ms Donna Ausling	Director of Planning and Sustainability, Narrabri Council
	Mr William Jennings	Senior Advisor to Hon. John Ruddick MLC, Libertarian Party
Dr John Humphreys	Chief Economist, Australian Taxpayers' Alliance and Founder, Libertarian Party	

Appendix 3 Minutes

Minutes no. 25

Friday 28 June 2024

Portfolio Committee No. 1 – Premier and Finance

Via videoconference, 10.32 am

1. Members present

Mr Buckingham, *Chair*

Mr Borsak, *Deputy Chair*

Dr Kaine

Mr Lawrence (from 10.34 am)

Mr Nanva

Mr Ruddick (participating)

2. Apologies

Mr Tudehope

3. Previous minutes

Resolved, on the motion of Mr Borsak: That draft minutes no. 23 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

'Received'

- 19 June 2024 – Email from the Office of the Hon. John Ruddick MLC requesting to participate on the Inquiry into the Alcohol Consumption in Public Places (Liberalisation) Bill 2024.

5. Inquiry into the Alcohol Consumption in Public Places (Liberalisation) Bill 2024

5.1 Terms of reference

The committee noted the following terms of reference referred by the House on 18 June 2024:

That:

- (a) The Alcohol Consumption in Public Places (Liberalisation) Bill 2024 be referred to Portfolio Committee No. 1 – Premier and Finance at the conclusion of the mover's second reading speech in the Council, and
- (b) The committee report by 20 September 2024.

5.2 Proposed timeline

Resolved, on the motion of Mr Nanva: That the committee adopt the following timeline for the administration of the inquiry:

- Submissions close – Friday 19 July 2024
- Hearing 1 – Monday 12 August 2024
- Report deliberative – Friday 13 September 2024

5.3 Stakeholder list

Resolved, on the motion of Mr Lawrence: That:

- the secretariat circulate to members the Chair's proposed list of stakeholders to be invited to make a submission
- members have two days from when the Chair's proposed list is circulated to make amendments or nominate additional stakeholders

- the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

5.4 Approach to submissions

Resolved, on the motion of Mr Borsak: That, to enable significant efficiencies for members and the secretariat while maintaining the integrity of how submissions are treated, in the event that 50 or more individual submissions are received, the committee may adopt the following approach to processing short submissions:

- All submissions from individuals 250 words or less in length will:
 - have an individual submission number, and be published with the author's name or as name suppressed, or kept confidential, according to the author's request
 - be reviewed by the secretariat for adverse mention and sensitive/identifying information, in accordance with practice
 - be channelled into one single document to be published on the inquiry website
- All other submissions will be processed and published as normal.

5.5 Online questionnaire

Resolved, on the motion of Mr Lawrence: That the committee use an online questionnaire to capture individuals' views, and that the draft questions be as follows:

1. Name

2. Email address

3. Postcode

4. The object of the Bill is to remove restrictions and prohibitions on the consumption of alcohol in public places, other than in public places prescribed by the regulations that are of cultural or religious significance, or where a person is intoxicated or disorderly. What is your position on the Alcohol Consumption in Public Places (Liberalisation) Bill 2024? Select one of these options:

a. Support

b. Partially support

c. Support with amendments

d. Oppose

5. Please explain why you support/partially support/support with amendments/oppose the bill. (max 300 words)

6. What amendments, if any, would you like incorporated?

7. Do you have any other comments? (max 300 words)

Resolved, on the motion of Mr Lawrence: That:

- the committee not accept proformas
- the media release announcing the establishment of the inquiry and emails to stakeholders note that there will be an online questionnaire to capture individuals' views
- that the following wording be included on the committee's website:

5.6 Submissions

Individuals are invited to submit their comments on the terms of reference [here](#) This is a new way for individuals to participate in inquiries and it means we will no longer accept proformas.

Resolved, on the motion of Mr Lawrence: That the secretariat prepare a summary report of responses to the online questionnaire for publication on the website and use in the report, and that:

- the committee agree to publication of the report via email, unless a member raises any concerns

- individual responses be kept confidential on tabling.

5.7 Provision of documents to participating members

Resolved, on the motion of Dr Kaine: That Mr Ruddick, who has advised the committee that he intends to participate for the duration of the inquiry into Alcohol Consumption in Public Places (Liberalisation) Bill 2024, be provided with copies of meeting papers and unpublished submissions.

6. Inquiry into the impact of the regulatory framework for cannabis in New South Wales

6.1 Submissions

Resolved, on the motion of Mr Borsak: That the committee re-open submissions until Wednesday 31 July 2024.

6.2 Participating members

Resolved, on the motion of Mr Borsak: That Ms Faehrmann and Mr Ruddick, as participating members for the duration of the Impact of the regulatory framework for cannabis in New South Wales be provided with copies of all committee papers and that all costs associated with their participation in the inquiry be covered by the committee.

6.3 Lismore travel

Resolved, on the motion of Mr Borsak: That the committee agree to:

- travel to Lismore on Tuesday 20 August 2024 to Wednesday 21 August 2024
- conduct a hearing in Lismore
- conduct a site visit to the Cymra Life Sciences Medicinal Cannabis facility in Alstonville, subject to the agreement of the facility
- an indicative costing of \$18,000 for this regional travel.

6.4 Extension of reporting date

Resolved, on the motion of Mr Borsak: That the Chair seek a resolution from the House to extend the reporting date for the Cannabis inquiry to Thursday 21 November 2024.

7. Adjournment

The committee adjourned at 10.45 am, until 10.00 am on Friday 5 July 2024, Room 1043, Parliament House, Sydney (report deliberative – Artificial Intelligence (AI) in New South Wales).

Alex Stedman
Committee Clerk

Minutes no. 30

Monday 12 August 2024

Portfolio Committee No. 1 – Premier and Finance

Macquarie Room, Parliament House, Sydney at 11.01am.

1. Members present

Mr Buckingham, *Chair*

Mr Borsak, *Deputy Chair*

Dr Kaine, until 1.30pm.

Mr Lawrence

Mr Nanva, via videoconference

Mr Rath, until 1.30pm.

Mr Ruddick (participating)

Ms Munro (substituting for Mr Tudehope for the remainder of the inquiry)

2. Correspondence

The committee noted the following items of correspondence:

'Received'

- 8 July 2024 – Email from Mitch Dudley, Manager Parliamentary Services Transport NSW, to the committee, advising that Transport NSW will not be making a submission.
- 10 July 2024 – Email from Katie Lockie, Australian Criminal Intelligence Commission, to the committee, advising that the ACIC and AIC will not be making a submission.
- 18 July 2024 – Email from Sue Kealy, Australasian Paramedics Association, to the Chair, advising that the APA will not be making a submission.
- 1 August 2024 – Email from Cooper Gannon, Whip's Advisor, to the secretariat, advising that Hon. Jacqui Munro MLC will be substituting for Hon. Damien Tudehope MLC for the remainder of the inquiry.
- 2 August 2024 – Email from Emma Rigney, City of Sydney Council, to the secretariat, providing consultation report documents.
- 7 August 2024 – Email from Emma Rigney, City of Sydney Council, to the committee, declining the invitation to give evidence at the public hearing on 12 August 2024.
- 7 August 2024 – Email from Kate Renehan, Senior Policy Solicitor, Aboriginal Legal Service, to the committee, declining the invitation to give evidence at the public hearing on 12 August 2024.
- 7 August 2024 – Email from Tijana Jovanovic, A/Manager, Strategic Law Reform Unit, Legal Aid NSW, to the committee, declining the invitation to give evidence at the public hearing on 12 August 2024.
- 7 August 2024 – Email from Amy van den Nieuwenhof, Senior Policy Officer, Office of the Secretary, Department of Planning, Housing and Infrastructure, to the committee, declining the invitation to give evidence at the public hearing on 12 August 2024.
- 8 August 2024 – Email from Iain Lonsdale, Acting Manager, Tweed Shire Council, to the committee, declining the invitation to give evidence at the public hearing on 12 August 2024.

3. Inquiry into the Alcohol Consumption in Public Places (Liberalisation) Bill 2024**3.1 Public submissions**

The following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1-5, 7-11.

3.2 Partially confidential submissions

The following submissions were partially published (name suppressed) by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 6.

4. Public hearing

The Chair made an opening statement regarding parliamentary privilege and other matters.

4.1 Witnesses, the media and the public were admitted at 11.15 am.

4.2 The following witnesses, appearing via videoconference, were sworn and examined:

- Mr Robert Taylor, Manager, Policy and Engagement, Alcohol and Drug Foundation.
- Ms Chloe Bernard, Senior Policy Officer, Alcohol and Drug Foundation.
- Ms Chris Keyes, Deputy CEO, Network of Alcohol and Other Drug Agencies (NADA).

The evidence concluded and the witnesses withdrew.

The following witness, appearing via videoconference, was sworn and examined:

- Mr David Reynolds, Chief Executive, Local Government NSW.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Peter Doukas OAM, Ethnic Communities Council of NSW Inc.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Timothy Roberts, Secretary NSW Council for Civil Liberties.
- Mr Josh Pallas, Past President, NSW Council for Civil Liberties.

The evidence concluded and the witnesses withdrew.

The following witness, appearing via videoconference, was sworn and examined:

- Ms Donna Ausling, Director of Planning and Sustainability, Narrabri Council.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr William Jennings, Senior Advisor to Hon. John Ruddick MLC, Libertarian Party.
- Dr John Humphreys, Chief Economist, Australian Taxpayers' Alliance and Founder, Libertarian Party.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 3.30 pm. The public and the media withdrew.

5. Next meeting

8.45 am, Monday 19 August 2024, Macquarie Room, Parliament House, Sydney (Cannabis hearing).

Verity Smith

Committee Clerk

Draft minutes no. 40

Friday 13 September 2024

Portfolio Committee 1

Room 1136, Parliament House, Sydney at 2.00 pm

1. Members present

Mr Buckingham, *Chair* (via videoconference)

Dr Kaine

Mr Lawrence (via videoconference)

Ms Munro

Mr Nanva (via videoconference)

Mr Rath

Mr Ruddick (participating)

2. Apologies

Mr Borsak, *Deputy Chair*

3. Previous minutes

Resolved, on the motion of Mr Nanva: That draft minutes no. 30 be confirmed.

4. Inquiry into the impact of the regulatory framework for cannabis New South Wales

4.1 Interim report and extension of reporting deadline

Resolved, on the motion of Mr Lawrence: That:

- the committee hold an interim report deliberative on Friday 25 October 2024.
- the Chair seek a resolution from the House to:
 - table an interim report in the House for the inquiry on Thursday 31 October 2024, and
 - extend the reporting deadline for the inquiry to Tuesday 8 April 2025.

5. Inquiry into the Alcohol Consumption in Public Places (Liberalisation) Bill 2024

5.1 Answers to questions on notice

The committee noted that the answers to questions on notice from Mr David Reynolds, Executive Officer, Local Government NSW, received 10 September 2024, were published by the committee clerk under the authorisation of the resolution appointing the committee.

Resolved, on the motion of Mr Lawrence: That:

- the answers to questions on notice from Ms Donna Ausling, Director Planning and Sustainability, Narrabri Shire Council, received 13 September 2024, be published, with the exception of the document entitled 'Crime and Crime Prevention in Narrabri Shire Research Results: Internal Use' which is to remain confidential, as per the request of the author.

5.2 Consideration of Chair's draft report

The Chair submitted his draft report entitled *Alcohol Consumption in Public Places (Liberalisation) Bill 2024*, which, having been previously circulated, was taken as being read.

Resolved, on the motion of Dr Kaine: that the following new paragraphs be inserted at paragraph 2.1:

'Current restrictions on the public consumption of alcohol

Local Government NSW explained that 'there is a misconception that alcohol is prohibited in all parks and public places'. [FOOTNOTE: Answers to questions on notice, Mr David Reynolds, Chief Executive, Local Government NSW, 10 September 2024, p 1.] They clarified the existing general freedom to consume alcohol in public places, and the process in which restrictions can be imposed:

It is important to acknowledge that in most parks and outdoor public places across NSW it remains perfectly legal to responsibly consume alcohol. In a limited number of cases, councils and other public land holders have consulted with their communities to determine where outdoor alcohol restrictions may be appropriately applied, and in many cases the restriction applies only overnight, or during special events. [FOOTNOTE: Answers to questions on notice, Mr David Reynolds, p 2.]

When questioned about the current number of alcohol-free zones in New South Wales, Local Government NSW responded that there is 'no central register of outdoor alcohol restrictions' and stated that they are not aware of the number of restrictions across NSW. [FOOTNOTE: Answers to questions on notice, Mr David Reynolds, p 2.]

Resolved, on the motion of Dr Kaine: that footnote 37 be amended by omitting 'Committee members queried the number of restrictions across NSW, and whether they are increasing. At the time of reporting, the Committee does not have details of the full extent of public alcohol restrictions in place across NSW, and whether there is a publicly available register of restrictions' after 'Submission 11, NSW Government, p 1'.

Resolved, on the motion of Dr Kaine: That:

- The draft report as amended be the report of the committee and that the committee present the report to the House,
- The transcripts of evidence, tabled documents, submissions, correspondence, responses and summary report to the online questionnaire, and answers to questions taken on notice be tabled in the House with the report,
- Upon tabling, all unpublished transcripts of evidence, tabled documents, submissions, correspondence, responses and summary report to the online questionnaire, and answers to questions taken on notice be published by the committee, except for those documents kept confidential by resolution of the committee,
- The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;

- Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting,
- The secretariat to table the report on Friday 20 September,
- The Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

6. Adjournment

The committee adjourned at 2.09 pm, *sine die*.

Verity Smith
Committee Clerk

