

NSW Government

Liquor Law Review

City of Sydney
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City of Sydney Council Submission

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Executive Summary

The night-time economy is an integral part of Sydney's commercial, cultural and social fabric. The City of Sydney (the City) commends the NSW Government for providing the opportunity for stakeholders to participate in this independent review.

In 2013 the City adopted the OPEN Sydney Strategy which aims to make Sydney at night better connected, more diverse, more inviting and safe, and more responsive to change. A vibrant and sustainable night-time economy is essential for Sydney to remain competitive and maintain its global status. The City supports measures that reduce alcohol-related harms, however these measures should not undermine the night-time economy.

The measures currently under review have accelerated the declining trend of alcohol-related harm, with improved residential amenity reported in some precincts. However, anecdotal evidence suggests there have been unintended negative impacts that have led to an overall reduction in night-time economic activity and the perception of the city at night.

Since the introduction of this legislation, both licenced and non-licenced business operators have raised concerns with the City. As a result we recommend that robust local planning provisions and liquor licencing regulation is required to achieve a safe, active and viable night-time economy. These provisions need to be evidence based, impose significant disciplinary action for poorly managed venues and incorporate regular review processes.

The City is a strong supporter of measures to address outlet density and the resulting cumulative impacts. We recognise and support the managed growth of night-time activity across the Sydney metropolitan area. As a large geographic area, increased options in a range of commercial centres and precincts across Sydney provide communities with local opportunities to work, meet and socialise. The City supports a refined approach to the existing liquor freeze and streamlining of the licence assessments through the Environmental Venue Assessment Tool to enhance multi-agency licence application assessment and minimise cumulative impacts.

Other matters addressed in this submission include the establishment of a liquor licencing panel to ensure decision making is more transparent, consistent and enforceable. The City recognises live music, cultural events and innovative businesses, such as small bars, provide diversity and are lower impact business models that contribute to a safe and vibrant night life. Notes for the review to consider and changes to the Liquor Act to ensure that these activities can flourish are also outlined in the submission.

Development of a safe and sustainable night-time economy can only be realised through implementation of a range of robust measures that operate together to encourage diversity and good management, and impose sanctions on poorly managed licensed premises. These measures are outlined throughout this submission and are co-dependent to achieve the outcome desired and should not be considered in isolation from each other.

Summary of recommendations:

1.30am lockout and 3am cease alcohol sales measures

a. 1.30am lockouts

Recommendation 1: Develop an evidence based criteria for 'good management' and an assessment process to ensure robust decisions that are transparent, shared and consultative (licensing panel be established to assess applications, as recommended in other related matters).

Recommendation 2: Trial exemptions for (primary function) live music and performance venues:

- remove the 1.30am lockout;
- automatic exemption for 12 months;
- annual renewal based on good management; and
- supported by a definition of a live music and performance venue.

Recommendation 3: Trial exemptions for other licenced premises based on good management:

- remove the 1.30am lockout;
- exemption on approval of application;
- annual renewal based on continued good management; and
- develop an evidence-based criteria for 'good management' (as per Recommendation 1).

Recommendation 4: Develop a definition of a 'live music and performance venue' that incorporates live music, including electronic musicians and artists, and can be used within liquor and planning legislation.

Recommendation 5: Develop a process by which live music and performance venues can be identified as eligible for exemptions, and which takes into account the various liquor licensing categories used by live music and performance venues.

Recommendation 6: All venues be subject to the withdrawal of the exemption under provisions within the disciplinary scheme.

b. 3am cessation of service

Recommendation 7: Develop an approach to determine venue operating hours based on the economic, social and environmental issues of the local area, evidence-based risk and mitigation measures, and operator compliance history.

10pm take-away liquor sales restriction

Recommendation 8: The City generally supports the restriction on take-away sales and recognises the need for a collaborative approach to address pre-fuelling.

Periodic liquor licence fee scheme

Recommendation 9: Continue the periodic liquor licence fee scheme based on its objective of encouraging well managed venues.

Recommendation 10: Reduce or remove the trading hours loading fee for small bars and live music and performance venues.

Recommendation 11: Establish provision within the Liquor Act for automatic revocation of a liquor licence in a saturation zone on cessation of the operation of a business.

Recommendation 12: Establish provision within the Liquor Act for non-renewal of liquor licence for ongoing non-compliance and or representation on the violent venues list over two years.

Other related matters

a. Disciplinary schemes

Recommendation 13: The schemes continue as essential to encouraging good venue management.

Recommendation 14: Evaluate the NSW disciplinary schemes to determine their effectiveness in encouraging compliance with liquor regulations and reducing the risk of alcohol-related violence.

b. Liquor outlet density and cumulative impact

Recommendation 15: Establish a definition of cumulative impact in the Liquor Act, considering:

- anti-clustering mechanisms to manage concentrations of high impact licenced premises; and
- limitations placed on the number and types of licenced premises permitted within a geographic area to encourage a diversity of licensed and non-licensed premises.

Recommendation 16: Change the Environment and Venue Assessment Tool to improve its reliability, accuracy and effectiveness, including:

- use of tool as the primary and consistent mechanism for notification to agencies/local authorities to provide feedback on:
 - cumulative impact; and
 - licence conditions.

Recommendation 17: Geocoding of all existing and new licence premises; this information to be made available to all government agencies / local authorities.

Recommendation 18: Replace the existing liquor freeze with 'saturation zone' provisions in the Liquor Act, including:

- establishing a definition for a 'saturation zone' that considers:
 - the number of licensed and late trading premises, and the distribution of particular licence categories;
 - crime data in the area;
 - availability of late-night transport; and,
 - other relevant factors.
- automatic extension of trading hours for small bars to 2am, instead of the current 12 midnight standard trading hours;
- exemptions for venues whereby the service of alcohol is ancillary to the provision of entertainment such as live music and performance; and
- annual review of saturation zone status.

Recommendation 19: It is noted that if the liquor freeze remains in place, the above exemptions and the Environment and Venue Assessment Tool process enhancements should still be applied in the effected zones.

c. Liquor licence approvals process

Recommendation 20: Establish a Licencing Panel with representation from Liquor & Gaming NSW, NSW Police and local council to review, consider and determine liquor licence

applications and revisions. The panel could consider applications when there is a high level of community concern or a rating of 'high' from the Environment and Venue Assessment Tool. This panel would be open to the public to make verbal submissions and for applicants to respond to concerns.

d. Diversification of the night-time economy

i. Small bars

Recommendation 21: Change the liquor licence definition of the small bar licence category to increase the capacity limit from 60 to 120 patrons.

Recommendation 22: Licence small bars solely through the small bar licence category to improve transparency.

Recommendation 23: Continue to apply exemptions from the liquor freeze to small bars (subject to saturation conditions and the Environmental and Venue Assessment Tool).

ii. Live music and performance

Recommendation 24: That the review note the positive social and cultural benefits of live music, the community's positive perceptions of safety in licensed premises, as well as its potential to reduce alcohol consumption and anti-social behaviour.

iii. Objects of the Liquor Act 2007

Recommendation 25: Investigate how support for live music is being achieved in NSW, as well as opportunities for this support to be increased.

e. Governance

Recommendation 26: Establish a NSW Government-led working group to oversee the ongoing development of a sustainable night-time economy.

f. Transport

Recommendation 27: Extend train services on Friday and Saturday nights to operate after venue closing time to get people home quickly and safely.

Recommendation 28: Establish a NSW government-led working group to oversee improvements in late-night transport and report to the overarching night-time economy working group.

g. Public space management

Recommendation 29: Develop a guideline outlining a best practice model in public space management to reduce the risk of alcohol-related crime through early intervention and coordination of resources.

h. Brief interventions

Recommendation 30: Establish a brief interventions and diversionary program that is integrated into the justice system to deal with alcohol-related anti-social behaviour and violence.

i. Research

Recommendation 31: Establish authority within licensing legislation for government to investigate point-of-sale data to monitor the sale of alcohol at high impact premises.

Recommendation 32: That the NSW Government consult with the Federal Government to investigate data-gathering standards that could be applied nationally to measure alcohol-related activities and impacts.

Background

On 11 February 2016 the NSW Government announced an independent review (*Liquor Law Review*) of the 1.30am lock-out and 3am cease alcohol sales measures in central Sydney and Kings Cross. The review is also considering the state-wide 10pm take-away liquor restriction and the periodic liquor licence fee scheme.

The statutory review will consider whether the policy objectives of these measures remain valid and their terms appropriate for securing those objectives.

The City's submission contains comments and recommendations about the review, and commends the NSW Government for providing the opportunity for stakeholders to participate in it.

Policy context

The City's local government area (the LGA) is 26.7 square kilometres with an estimated residential population of 198,331¹ and some of the greatest residential densities in Australia. Each day, there are an estimated 1.2 million people in our local area, including residents, workers, students and visitors².

The night-time economy is an integral part of Sydney's commercial, cultural and social fabric. Late-night trading premises are an important part of Sydney's social and street life, and play an important role in the city's economic growth. People who live or work in the city, as well as tourists, are attracted to these places as a result of their diversity and vitality. Late-night trading premises provide employment and jobs with flexible hours.

The City's local area contains one of the greatest densities of late-trading licensed premises in Australia. As at March 2016³, it contains:

- 2,162 licensed premises;
- 228 can trade 24 hours;
- 638 have extended trading hours authorisations; and
- 521 trade after midnight.

As Australia's global city, it is estimated that the economic output from the City of Sydney is just over \$110 billion. This represents around a third of the economic output of metropolitan Sydney, more than 20 per cent of NSW's output and more than 7 per cent of the national economic output. The night-time economy makes a significant contribution to our economy; in 2013 it was estimated at \$17.85 billion, employing 30,348 people⁴.

The City recognises the important role that licensed premises play, with well-managed, safe licensed premises an integral part of any global city. There must be an appropriate balance between public safety, residential amenity and economic growth.

In 2011 the City began work on the OPEN Sydney Strategy, a vision for Sydney at night. The strategy was developed following wide consultation with the public on what they wanted for their city after dark. The strategy is grounded in a substantial body of research into

¹ Estimated Resident Population (ERP) at 30 June 2014 (ABS Cat no. 3218.0 Regional Population Growth Australia, 2013-14)

² City of Sydney estimates published in the City of Sydney Council Fit For Future Submission (p.14)

³ Liquor & Gaming NSW

⁴ TBR (2015)

Sydney's night-time economy, including international research into best practice management.

Endorsed in 2013, the strategy forms the basis for how the City makes decisions about Sydney at night between now and 2030. The strategy includes actions for making Sydney's night - time economy better connected, more diverse, more inviting and safe, and more responsive to change.

The City is committed to improving the functioning of the city at night to ensure night - time experiences are balanced with daytime activities, and are inclusive of the broader population. Achieving this is important; our population continues to age and tourism markets, work practices and leisure patterns change. A thriving night-time economy is also an integral part of the City's social sustainability, providing an important role in social interaction and connection, as well as employment.

Implementing the intent of OPEN Sydney for greater diversification of the night-time economy is the City's Creative City Cultural Strategy and Action Plan, and Live Music and Performance Action Plan that guide the development and growth of these sectors to achieve a diverse array of night-time entertainment options in Sydney.

The Live Music and Performance Action Plan, which was developed in partnership with representatives of the live music and performance industry and academics, focused on the regulation of live music. The action plan commits the City to regulatory reform, advocacy, research and strategic projects across four areas: development controls and noise, Building Code of Australia, liquor licensing and audience and sector development.

The Economist Intelligence Unit measures urban safety and security, with a survey conducted in 2015. Sydney was ranked sixth safest city globally out of 50 cities – the highest ranked Australian city. We also ranked ahead of New York, London, San Francisco and Hong Kong⁵.

While alcohol-related violence is on the decline in parts of the City's local area, the incidence of high profile alcohol-related violence risks Sydney's reputation as a safe city for local and visitor populations.

Equally, the unintended negative impacts of measures to address alcohol-related violence are a risk to the economic vitality and sustainability of the night-time economy if public perception results in a decline of late trading premises, decreases the diversity of businesses trading at night and therefore results in a decline in visitation to the city at night. This could damage key sectors (for example live music and performance) and Sydney's reputation as a dynamic and global city.

The City's OPEN Sydney Strategy, Creative City Cultural Policy and Live Music and Performance Action Plan all advocate for a greater range of entertainment options at night beyond those that are solely alcohol focused. Having more options at night creates a safer and more balanced night-time economy in the city and village centres, which attracts a wider range of people into these precincts for a range of different activities.

Key to establishing a prosperous and sustainable global city at night is taking a coordinated, collaborative and holistic approach to its development, servicing and governance. This requires all levels and elements of government to work together.

We recognise the crucial role that good legislation, governance, enforcement and a diverse night-time economy plays in ensuring that our city is a safe place to live, work and visit.

⁵ <http://www.economistinsights.com/infrastructure-cities/analysis/safe-cities-index-2015>

The comments and recommendations below are based on the City's own strategic priorities, current research and anecdotal feedback, pending the completion and publication of the NSW Government's review and evaluation.

1.30am lock out and 3am cease-alcohol sales measures

The City supports measures to reduce alcohol-related violence and has consistently advocated for a nuanced, evidence-based approach. The City has been and remains deeply concerned that unintended negative impacts may or have occurred as a result of this broad based legislative change.

Licensed premises in Sydney⁶ are spread across the local area. Almost half (44 per cent) of the 2,162 establishments fall outside of the Kings Cross and CBD precincts. Forty-eight (48) of these venues can trade 24-hours, and approximately 190 have extended trading hours authorisations.

The exclusion of the Star Casino and Barangaroo from the current reforms is also noted. The application of the reforms to the current areas, and exclusion of casinos, presents an unfair situation for business and fails to take account of the physical environment, business model, management practices or compliance history of individual business operators.

Since the introduction of the lockouts, both licensed and non-licensed business operators in the Oxford Street and Kings Cross areas have raised concerns anecdotally with the City, claiming the loss of jobs and business closures. The 1.30am lockout is cited as the measure of most concern to the live music industry.

Anecdotally, the reduction of foot traffic on the streets around Darlinghurst due to the lockout measures has reduced the perception of safety for the gay, lesbian, bisexual, transgender, intersex and queer community. The high number of people on the street prior to introduction of the measures helped to reduce targeted bullying, which is more likely to occur when a person is isolated and alone.

The City has noted that communities in surrounding areas not affected by the reforms, such as Newtown, are concerned about a change in the type and behaviour of people visiting the area at night. Licenced premises in this area introduced a 3am self-imposed lockout restriction which, according to the Newtown Liquor Accord, appears to have discouraged people leaving city venues from coming into the area.

Consultation and data received from the live music sector specifically suggests that these measures have caused a significant negative impact on programming and attendance of live music and performance in the CBD precinct and Kings Cross. Anecdotally, venue operators have cited loss of patrons, event bookings moving to venues outside the Sydney CBD and to illegal warehouse venues. They've also reported a significant change in promoter and booking agent perceptions of CBD and Kings Cross venues, resulting in venue operators having greater difficulty attracting bookings.

Elements of these anecdotal reports have recently been partially quantified by the release of the Australasian Performing Right Association data citing the following changes within the CBD Entertainment Precinct from the period 1 February 2013 to 31 January 2015:

Venues with a Live Artist Performance licence (all premises):

- 40 per cent overall decline in the value of door charge receipts;

⁶ Liquor & Gaming NSW

- 15 per cent overall decrease in the value of venue expenditure on live artist performers;

Venues with a Live Artist Performance licence (hotels, bars and nightclubs):

- 32 per cent decrease in the value of door charge receipts; and
- 17 per cent decrease in the value of venue expenditure on live artist performers.⁷

The City acknowledges there has been a reduction in alcohol-related incidents in the CBD and Kings Cross, with improved residential amenity reported in Kings Cross since the introduction of these measures. However, the exclusion of the Pyrmont area and Star Casino, which we understand operates under different legislation, is concerning.

The head of the NSW Bureau of Crime Statistics and Research, Don Weatherburn, recently said: “There is a statistically significantly upward trend (in Pyrmont) but how much of that is due to the lockouts or is a pre-existing trend is hard to say....While the suburb included areas outside of The Star, most of the assaults, but not by any means all, in Pyrmont are concentrated in the area near the casino.”⁸

The measures used to achieve the reduction in alcohol-related incidents have had a significant impact on Sydney’s reputation as a global city and pose a risk to the cultural vitality and economic sustainability of the night-time economy.

The reforms risk the viability of live music and performance in the Sydney CBD by reducing visitation to the city. They reduce opportunities for musicians (already among Australia’s lowest paid workers) and music industry workers to earn income. They reduce industry confidence, foster negative public perceptions of Sydney’s venue-based live music industry and impact the diversity of leisure options available to visitors and residents in Sydney at night. Further information is included within other related matters of this submission.

The City notes that exemptions to the 1.30am lockout provision have been granted by Liquor and Gaming NSW, conditional upon, among other things, alcohol not being sold during the lockout period of 1.30am to 3am. There have been 16 exemptions granted, two in Kings Cross and 14 in the CBD precinct. Anecdotal evidence suggests these venues have sought exemption to enable ongoing revenue collection from gaming machines.

A change in venue reliance on revenue from alcohol to gaming may serve to exacerbate problem gambling. Problem gambling is identified as a major cause of social and health problems, including financial difficulties and family problems, domestic violence and marital breakdown. As gaming machines exist in licensed premises it is important to examine links between gambling, alcohol and domestic violence. Further research should examine lock outs and the impact of increased access to gaming facilities.

a. 1.30am lockouts

The City has received unsolicited correspondence from more than 380 community members identifying a range of concerns regarding the impacts of the 1.30am lockouts. These include the reduction of people on the street, loss of jobs and business diversity, concern about the negative perception of Sydney at night, and a decreased sense of safety due to inactivity.

⁷ <http://livemusicoffice.com.au/drop-in-live-performance-revenue-and-nightclub-attendance-in-sydney-cbd-since-introduction-of-lockout-laws/>

Key findings from research into alcohol-related violence suggest it is the reduction in trading hours that work to decrease assaults and not that of lockouts. These findings are included in the research studies discussed below.

In 2011 the City commissioned a study into international research and best practice on night-time economy management to inform development of the City's night-time economy strategy. In this study, Dr Phil Hadfield found that while lockouts were used at the time in Australia, there was no conclusive evidence concerning their effectiveness.⁹

The Australian Institute of Criminology (AIC)¹⁰ carried out a study on the range of evaluations of the effectiveness of the liquor licensing reforms in Newcastle, NSW, in 2008, including reduced trading hours, lockouts and other measures. The AIC concluded they could be reasonably confident the range of measures introduced caused a reduction in alcohol-related assaults. However, they could not determine the mechanisms of change and how they operate, in context, to bring about the reduction in alcohol-related violence.

A leading authority in this area of research, Professor Tim Stockwell, said:

“Perhaps one of the most remarkable things about this whole literature is that adding or subtracting just 1 or 2 hours of trading after midnight can make such a substantial difference to rates of violence”¹¹.

The recent study into the Newcastle measures that examined the effects of reducing the trading hours of licensed premises from 5 am to 3 am found an estimated 37 per cent reduction in late-night violence.¹² In a study in Perth, adding one extra hour of additional trading after midnight was associated with a 70 per cent increase in late-night violent incidents reported to the police¹³.

Lockouts are licensing measures that require licensed premises to deny entry to new patrons beyond a certain time of night, although they can retain the customers they already hold until closing time. The movement of intoxicated persons is not removed as a result of lockouts, it is simply delayed and there is no conclusive evidence concerning their effectiveness¹⁴.

In early 2014, the newDemocracy Foundation facilitated a citizens jury to consider how we can ensure a safe and vibrant Sydney nightlife. The jury received 39 submissions from the public, and a range of experts chosen by the jury gave presentations. The jury's work was supported by an ongoing, online private discussion forum and an online library. Their final report contained 25 recommendations grouped under diversity, transport, policing and safety, education and media, and lockouts and licensing.

When considering the 1.30am lockouts, the jury found a lack of conclusive evidence as to their effectiveness. Upon deeper investigation they found mixed or uncertain results. The jury recommended that exemptions to the lockouts and other trading restrictions be available for venues based on good behaviour, no incidents, and proven lower risk to public safety. This model/management strategy creates a financial incentive to comply with operating conditions and to manage impacts. A copy of the report can be found here: [Sydney Citizens' Policy Jury – Final Report](#).

⁹ Hadfield, P (2011) and Kyri Et al, (2011) p310

¹⁰ https://prezi.com/lnjdu_6hkwzy/the-newcastle-solution-a-realist-perspective/

¹¹ Stockwell, T (2011: 311)

¹² Kyri et al., (2011)

¹³ Chikritzhs and Stockwell (2002)

¹⁴ Hadfield, P (2011:148)

On 14 March 2016 at a presentation on the NSW liquor reforms at Sydney University, the head of the NSW Bureau of Crime Statistics and Research, Don Weatherburn, stated there was no doubt the reforms had caused the reduction in assaults. However, he stated that it is clear from previous research that it is the reduction in trading hours that works to decrease assaults, rather than the 1.30am lockout.¹⁵

Current research suggests that lockouts are not an effective measure to reduce alcohol-related violence. It is on the basis of these factors that the City recommends that there be refinements made to the current laws regarding lockouts if they are continued.

Recommendations by the review in this regard, if made, should take into account the need to identify venues that are operated responsibly and which contribute to a diverse night-time economy.

In regards to live music venues, the review should note recent analysis of 2014 APRA data conducted by the City which identified that, of the venues with a high degree of live music activity (programming expenditure or ticket receipts of \$100,000+), 56 per cent did so under a Hotel liquor licence and 44 per cent under an On-Premises liquor licence, most commonly an On-Premises (Restaurant).

Very few premises considered to be live music venues by the industry or general public utilise the On Premises (Entertainment Venue) liquor licence type or the Small Bar licence. Given the range of licence types live music venues operate with, the difficulty associated with migrating existing businesses between licence types and the existence of the On Premises (Entertainment) licence type, the City does not recommend the creation of a new category, or institution of exemptions or incentives that require a venue to apply to the NSW Government for a change to their existing licence.

Development of a safe and sustainable night-time economy can only be realised through implementation of a range of robust measures that operate together to encourage diversity and good management, and impose sanctions on poorly managed licensed premises.

These measures are outlined throughout this submission and are co-dependent to achieve the outcome desired and should not be considered in isolation from each other.

They establish a more robust and transparent framework that proactively manages growth and cumulative impact, and more effectively controls saturation zones. They deal with the effective poor management of licensed premises and encourage diversity and lower impact business models. If these mechanisms are fully implemented, removal of the blanket application of the 1.30am lockout provisions should be considered.

Recommendation 1: Develop an evidence based criteria for “good management” and an assessment process to ensure robust decisions that are transparent, shared and consultative (Licensing Panel be established to assess applications, as recommended in other related matters).

Recommendation 2: Trial exemptions for (primary function) Live Music & Performance Venues:

- Remove the 1.30am lockout;
- Automatic exemption for 12 months;
- Annual renewal based on good management; and
- Supported by a definition of a live music and performance venue.

¹⁵ <http://www.news.com.au/lifestyle/food/drink/rise-in-assaults-around-sydneys-star-casino-increases-calls-for-venue-to-be-part-of-lockout-zone/news-story/68ecb6555c4450c09b6323ca5bde1127>

Recommendation 3: Trial exemptions for other licenced premises based on good management:

- Remove the 1.30am lockout;
- Exemption on approval of application;
- Annual renewal based on continued good management; and
- Develop an evidence based criteria for “good management” (as per Recommendation 1).

Recommendation 4: Develop a definition of a ‘live music and performance venue’ that incorporates live music, including electronic musicians and artists and can be used within liquor and planning legislation.

Recommendation 5: Develop a process by which live music and performance venues can be identified as eligible for exemptions, and which takes into account the various liquor licensing categories used by live music and performance venues.

Recommendation 6: All venues be subject to the withdrawal of the exemption under provisions within the disciplinary scheme.

b. 3am cessation of service

International and Australian evidence suggests a clear link between terminal trading hours and levels of alcohol related violence.¹⁶ Trading hours for licensed premises are determined via the respective licensing legislation and planning consents. Many cities globally do not have 24 hour licensing. Those cities with earlier trading hours tend to have lower levels of alcohol-related crime. However, many factors influence crime levels.

Increasing trading hours into the early morning leads to increased alcohol use and related harms. Adding or subtracting just one or two hours of trading after midnight can make a substantial difference to violence rates.¹⁷

Notwithstanding the above evidence, we believe that it is important that Sydney, as a global city, maintains a diverse late-night economy. From 2009 there was a clear downward trend in assault for both the Kings Cross and CBD precincts. This trend accelerated following the introduction of the January 2014 reforms.¹⁸ The City believes a more refined approach than the current 3am cessation of trading would achieve better outcomes to maintain a diverse night-time economy while achieving safety outcomes and reducing alcohol-related violence.

In the City, allowable trading hours for business is established by geographic areas as outlined within the City of Sydney Development Control Plan 2012. Section 3.15 of the Late Night Trading Management Plan was developed to assist in the management of the impacts of late-night trading premises and to protect the amenity of existing residential properties.

The development control plan outlines the following areas:

- Six (6) Late Night Management Areas (LNMA) allowing 24 hour trading, subject to consent;
- Three (3) City Living Areas allowing trading to 5am, subject to consent; and
- Fourteen (14) Local Centre Trading Areas allowing trading to 12 midnight, subject to consent.

¹⁶ Preventative Health Taskforce (2009)

¹⁷ Chikritzhs and Stockwell (2002); Hadfield (2011); Kypril et al., (2011); Stockwell (2011).

¹⁸ Menendez, P (2015)

The plan also outlines definitions for 'Category A - High Impact Premises' and 'Category B - Low Impact Premises'. These provide greater certainty to the community and proponents of late-night trading premises in respect to appropriate operating hours and locations. The provisions do not set out to curb or increase potential trading hours in a blanket fashion throughout the city, but allow opportunities for late-night trading hours in appropriate locations with appropriate management actions.

The development control plan is the City's guide to assessing development applications and is instrumental in determining appropriate trading hours according to land use zoning and evidence-based risk mitigation measures.

The late-night management area provisions within the plan establish a flexible and responsive framework that should be considered for extension to the liquor licensing system.

An approach that could achieve a safe and active night-time economy would combine the late-night provisions of the plan with a robust liquor licensing regulation that includes evidence-based assessment of applications in saturation zones and imposes significant disciplinary action, including licence cancellation and periodic renewal.

Recommendation 7: Develop an approach to determine venue operating hours based on the economic, social and environmental issues of the local area, evidence-based risk and mitigation measures and operator compliance history.

10pm take-away liquor sales restriction

Recommendation 8: The City generally supports the restriction on take-away sales and recognises the need for a collaborative approach to address pre-fuelling.

Periodic liquor licence fee scheme

The City supports a periodic liquor licensing scheme that addresses the problems associated with licenses continuing in perpetuity. Many jurisdictions have some form of a licensing permit system, where liquor licences (like drivers licences) are renewed on a periodic basis and not issued in perpetuity.

This type of system provides for non-compliant and regularly infringed premises to face mandatory reviews and potentially serious consequences, including reduction of trading hours or non-renewal of their licence. Under a periodic licence fee scheme, liquor licences no longer in use, or dormant licences, are able to be closed off within the licensing system, as the renewal system tracks those licences which are no longer active.

In January 2014 the NSW Government announced the introduction of a new Periodic Liquor Licence Fee Scheme providing for annual fees for renewal of new and existing liquor licences starting on 15 March 2015. The level of fees payable by each venue is calculated using a risk-based model comprising a base fee plus risk-based loadings that reflect the level of risk posed by a venue and its operation.

The risk-based structure includes two main components:

- trading hours loading for venues who regularly trade beyond midnight; and
- compliance history risk loading based on the number of offences committed in the previous calendar year. When this loading is incurred the following loading is also incurred:
 - location risk loading for venues located within the Kings Cross or CBD precincts; and

- capacity risk loading based on patron capacity of the venue.

The City supports the continuation of the periodic liquor licence fee scheme in its current form as a mechanism to encourage good management and smaller lower impact venues.

We understand that in 2015, application was made and the trading hours loading fee waived for 372 or 83 per cent of venues who operate after midnight, based on financial hardship.¹⁹ While the City supports late-night trading businesses contributing to the cost of managing and servicing Sydney at night, given the high proportion (83 per cent) of successful fee waivers, the details of the scheme should be reviewed and potential reductions given to certain types of venues (e.g. small bars and live music venues) which do not contribute significantly to the cost of managing the night-time economy.

Consideration should be given to reviewing the trading hours loading to provide incentives for greater diversification and operation of lower impact premises. This may include exemptions or reduced trading hours loading fees for small bars and venues that regularly program live music and performance or other positive social outcomes, subject to good management.

The periodic liquor licence fee scheme could be strengthened to better deal with areas that have reached saturation, under the new proposed saturation zone provisions. Authority could be established within the liquor act for automatic revocation of licenses for businesses that cease to operate within these areas. This would enable revitalisation and recalibration of previously problematic areas, with any new liquor licence applications being subjected to cumulative impact and saturation zone provisions.

Consideration should be given to including provision within the liquor act to refuse a liquor licence renewal based on ongoing non-compliance and or representation on the violent venues list over at least two years. This will support the disciplinary scheme and further strengthen provisions to deal with poorly managed licensed premises.

Recommendation 9: Continue the periodic liquor licence fee scheme based on its objective of encouraging well managed venues.

Recommendation 10: Reduce or remove the trading hours loading fee for small bars and live music and performance venues.

Recommendation 11: Establish provision within the liquor act for automatic revocation of a liquor licence in a saturation zone on cessation of the operation of a business.

Recommendation 12: Establish provision within the liquor act for non-renewal of liquor licence for ongoing non-compliance and or representation on the violent venues list over two years.

Other related matters

a. Disciplinary schemes

We acknowledge the importance of an effective disciplinary scheme and the value of consistent standards, expectations and enforcement powers.

The disciplinary schemes in NSW encompass two components that allow Liquor and Gaming NSW to impose sanctions on licensed premises based on their compliance with the liquor act and the number of alcohol-related assaults, as follows:

¹⁹ NSW Government (2016) Liquor Law Review: Department Background paper
<http://www.justice.nsw.gov.au/justicepolicy>

– Three Strikes Scheme

The City supports sanctions against licensed venues that repeatedly commit serious offences, including cancellation of their liquor licence under NSW's Three Strikes Scheme. We understand that since July 2012 there have been a total of 148 strikes issued to licensed premises across NSW, with 132 venues issued a first strike, 13 with a second strike and three with a third strike.

The scheme is intended to provide serious sanctions for poorly operated venues including changes to liquor licence conditions, lockout restrictions and suspension and cancellation of licence. We believe it provides incentives to all licensees to establish well managed venues and has the potential to be a suitable tool to apply substantial sanctions on individual venues that have poor compliance performance.

– Violent Venues Scheme

The City supports the continuation of the Violent Venues Scheme to regulate licensed premises with high levels of assault and other violent incidents. The scheme seeks to manage/reduce alcohol related violence and focuses on acts of violence (offences under the Crimes Act) attributable to a venue.

Both of these schemes provide incentives to all licensees to maintain well managed venues and disincentives (substantial sanctions) to reduce the risk of alcohol-related violence.

An evaluation is needed to understand if these schemes are effective in practice. Specifically, if the provisions are robust enough to withstand legal appeal, to encourage well managed venues that result in a material impact on reducing the risk of alcohol-related violence.

When operated and resourced to best effect, these disciplinary schemes, in combination with the periodic risk based licensing scheme, provide a robust framework to effectively manage licensed premises to establish a safe and active night-time economy.

Recommendation 13: The schemes continue as essential to encouraging good venue management.

Recommendation 14: Evaluate the NSW disciplinary schemes to determine their effectiveness in encouraging compliance with liquor regulations and reducing the risk of alcohol-related violence.

b. Liquor outlet density and cumulative impact

During the past decade, there has been increasing attention in Australia on the relationship between alcohol, violence and licensed premises. A significant body of research has emerged during this period in Australian literature²⁰ and international literature²¹. It links the concentration of licensed premises with alcohol-related violence and associated cumulative impacts.

There is strong evidence of correlations between greater numbers of licensed premises and bottle shops, and greater rates of violence.²² The proximity of licensed premises to each other is a major predictor of violence. Clustering of licensed venues in small areas is

²⁰ Donnelly et al (2006) and Chikritzhs et al (2010)

²¹ Roberts & Eldridge (2009) and Hadfield (2009)

²² Hadfield (2011)

associated with heavy sessional drinking and alcohol related harm. When patrons move between venues, offences occur in the nearby public spaces.²³

The City has been a strong supporter of measures to address outlet density and there are many international precedents for addressing this issue. Some jurisdictions (such as British Columbia and local authorities in the United Kingdom) use saturation zones where no new licensed premises are permitted for a certain period of time. Other jurisdictions (such as New York and Paris) use cluster controls which don't permit new premises within a set number of metres from existing premises and other uses (e.g. schools or hospitals).

In late 2011, in response to an identified need to research and investigate the impact of the density of licensed premises on alcohol-related violence and community safety, Liquor and Gaming NSW (formerly NSW Office of Liquor Gaming and Racing) commissioned ACIL Allen Consulting Group (formerly the Allen Consulting Group) to undertake a study into the cumulative impact of licensed premises in NSW.

As part of this research, the environment and venue assessment tool was developed and trialed for use when assessing liquor licence applications and the risk of adverse social outcomes, especially of increased violence, that might follow the granting of a new liquor licence. The environment and venue assessment tool provides weighted risk assessments against identified economic and social impacts of liquor licence density and the contributing external and market risk, and mitigation factors.

In July 2014 an evaluation concluded that by the end of the trial, the tool had been fully implemented for new liquor licence applications in the City of Sydney (and City of Newcastle) local areas. A number of applications during the trial were affected by refinements to liquor licensing processes and the freeze on liquor licences in Sydney CBD precinct from February 2014. The evaluation determined that the development of the Environment and Venue Assessment Tool has contributed to significant process and communication improvements regarding liquor licence decision making, and a sharper focus on risk and its mitigation. The evaluation recommended further examination of the tool's reliability and validity.

Liquor and Gaming NSW use the environment and venue assessment tool to inform decision making on liquor licence applications across NSW. It is not clear whether it has been effective in mitigating cumulative impact.

At present there is no definition of 'cumulative impact' or 'saturation zone' within the NSW Liquor Act. Despite this, the principles behind saturation zones have been applied to some entertainment precincts – Kings Cross and CBD – through a liquor licence freeze. The liquor freeze bans the granting of most new liquor licences (except restaurants and small bars in the CBD) and restricts some existing licensed venues from expanding their trading hours or increasing their patron capacity. The freeze restricts small bars from operating beyond 12 midnight in the freeze areas without further approval.

The City resolved to not grant new footway approvals or approvals that intensify use for premises that are subject to the licence freeze, as outlined in the Liquor Act 2007, until such time as the liquor freeze provisions no longer apply.

The City supports existing measures to address outlet density and cumulative impact. However, there is a need to develop a more refined approach to manage sustainable growth while proactively monitoring areas to avoid situations of saturation, such as in the Kings Cross precinct.

²³ Ibid

Applying a freeze to a geographic area does not take account of the range of risk and mitigation factors that may affect a specific area or the business types, such as venues that do not exist solely for the purpose of selling alcohol. This might include new licensed live music and performance venues that contribute to the diversity of the area and may actually pose a low level of risk.

A more holistic approach, rather than a freeze, could deliver a planning, regulatory and management environment that contains appropriate risk mitigation measures while encouraging a more diversified licensed environment that includes business models that are lower impact.

Equally, the existing freeze arrangements do not take account of impacts that can be caused by venues with concentrated activities, such as casinos. The casino in Pymont and future casino in Barangaroo are managed under separate legislation to licenced premises. These venues are currently excluded from the liquor freeze and legislative measures that are the subject of this review. It is important to note that the impact of these venues can be significant to the local area and community, and therefore the separate legislation under which they are managed should acknowledge they have an increased level of responsibility and care in the areas surrounding their venues.

The City supports a saturation zone model which provides relevant government agencies with the capacity to manage cumulative impact and saturation of particular types of licenced premises within an area, rather than preventing any new licences.

The City supports enhancements to the environment and venue assessment tool to streamline the assessment process for all relevant agencies, and more accurately take account of cumulative impacts. Changes include using the tool as the primary mechanism for multi-agency feedback on cumulative impact and recommendations for conditions of consent for all liquor licence applications. In addition, geocoding of all licenced premises will ensure accurate assessment of cumulative impact and support identification, and proactive monitoring of growth areas. This monitoring would also assist in the proactive planning and management of infrastructure and amenity in those areas.

Recommendation 15: Establish a definition of cumulative impact in the Liquor Act, considering:

- anti-clustering mechanisms to manage concentrations of high impact licenced premises; and
- limitations placed on the number and types of licenced premises permitted within a geographic area to encourage a diversity of licensed and non-licensed premises.

Recommendation 16: Change the environment and venue assessment tool to improve its reliability, accuracy and effectiveness, including:

- use of tool as the primary and consistent mechanism for notification to agencies/local authorities to provide feedback on:
 - cumulative impact; and
 - licence conditions.

Recommendation 17: Geocoding of all existing and new licence premises, with this information made available to all government agencies / local authorities.

Recommendation 18: Replace the existing liquor freeze with 'saturation zone' provisions in the liquor act, including:

- establishing a definition for a 'saturation zone' that considers:

- the number of licensed and late trading premises and the distribution of particular licence categories;
 - crime data in the area;
 - availability of late night transport; and,
 - other relevant factors.
- automatic extension of trading hours for small bars to 2am instead of the current 12 midnight standard trading hours;
 - exemptions for venues whereby the service of alcohol is ancillary to the provision of entertainment such as live music and performance; and
 - annual review of saturation zone status.

Recommendation 19: It is noted that if the liquor freeze remains in place the above exemptions and the environment and venue assessment tool process enhancements should still be applied in the effected zones.

c. Liquor licence approvals process

Liquor licence applications cannot be granted unless development consent under the (NSW) Environmental Planning and Assessment Act 1979, where required, has been obtained and is in force.

Key issues with the current liquor licensing approvals process include:

- often the dual systems are confusing for applicants to navigate;
- development applications and liquor licence applications are undertaken consecutively, not in parallel, resulting in significant timeframes for the establishment of a business. This can negatively impact residents and local business operators alike due to uncertainty created by the lack of transparency and consultation in the liquor licence assessment process;
- conditions can sometimes be contradictory or not well aligned;
- lack of clarity on how decisions are being made; and
- lack of public awareness of the approval process.

In NSW, the current process for determination of liquor licence applications offers limited opportunity for community participation and involvement, including limited involvement for council and the Police. Applications are made with only limited information provided to councils and the community, and the time period for submissions can be too short where there is significant concern about an application. No advice is provided on the progress of applications and no notification is given to councils or the community when a decision is made.

There is very rarely any opportunity for community involvement in the form of verbal submissions to the determining authority. No opportunity is provided to observe deliberations, applicants have limited opportunity to respond to concerns raised and information about decisions is not widely publicised (although publication of decisions has improved in recent times).

A more public and accessible process could be established to address some of these issues. This could apply for applications when there is a high level of community concern or a rating of high from the environment and venue assessment tool.

The City acknowledges recent changes to the NSW Government Office of Liquor Gaming & Racing (now Liquor and Gaming NSW) and Independent Liquor & Gaming Authority that aim to streamline some processes, reduce application decision timeframes and provide clarity to

applicants. While it is too early to assess the outcomes of these changes, the City's preferred option is to form a licensing panel for certain liquor licence applications to ensure decision making is more transparent, consistent and enforceable.

Recommendation 20: Establish a licencing panel with representation from Liquor & Gaming NSW, NSW Police and local council to review, consider and determine liquor licence applications and revisions. The panel could consider applications when there is a high level of community concern or a rating of high from the environment and venue assessment tool. This panel would be open to the public to make verbal submissions and for applicants to respond to concerns.

d. Diversification of the night-time economy

i. Small bars

In 2011 the City started a program to support business diversification of the night-time economy through the establishment of small bars with development consent for venues with capacity of up to 120 patrons. This was supported by the City of Sydney Development Control Plan 2012 which makes provision for small bars as a Category B low impact venue.

There are approximately 128 small bar style venues (120 capacity) in the City of Sydney. Advocacy to the NSW Government resulted in the creation of a separate small bar licence category under the (NSW) Liquor Act 2007, which came into effect on 1 July 2013. However, this licence is for venues with a maximum capacity of 60 patrons (rather than 120).

An evaluation of Sydney's small bars (120 patron capacity) was undertaken in October 2013 by Woolcott Research. It found that small bars were viewed positively by customers, operators, and regulatory staff from the NSW Police, NSW Liquor and Gaming (formerly NSW Office of Liquor, Gaming and Racing) and the City of Sydney. They were considered a relaxed alternative to other licensed venues, and were overwhelmingly felt to have brought diversity to the city.

Larger pubs and bars were the most common alternative to small bars, but visitors preferred small bars because of the friendly, intimate atmosphere and quality of service, food and drinks.

They were considered low risk in terms of safety issues by operators, regulatory staff and customers. The majority of customers (79 per cent) said they felt safer in the local area because of the presence of small bars. Operators and regulators cited the small, intimate nature of the bars, as well as more mature patrons for their low risk of anti-social behaviour and violent incidents.

At present there are three ways in which small bar style venues can obtain a liquor licence under the (NSW) Liquor Act 2007:

- Hotel (General Bar) licence;
- On-premises (restaurant) licence (with primary service authorisation); and
- Small bar licence (maximum patron capacity of 60 patrons).

The City supports a specific class of licence for small bars, however, recommends adjustments to ensure it effectively meets the needs of the industry, the expectations of the public and the objectives of the act. At present, the capacity limit of 60 persons for a small bar licence is too restrictive, leading small bars to apply for an on-premises (restaurant) licence even though their intended business model more closely resembles a 'bar'. If the patron capacity under the small bar liquor licence was increased and small bars were only permitted through the small bar licence, it would make the character of the premise clear to

local residents. The City continues to advocate to the NSW Government to revise the patron capacity of a small bar to 120 persons.

In Western Australia and South Australia the Small Bar Licence has a maximum capacity of 120, and is providing positive outcomes for the live music and performance industry. The current capping of allowable capacity for this licence at 60 limits the impact this licence type can have in achieving object three of the act (support for live music and performance) in that a venue of such low capacity is usually unable to sustain live music and performance programming on a significant scale. The expansion of the small bar licence to include venues of capacities up to 120 would increase the impact this licence category can have in achieving the stated goal of the liquor act in supporting live music and performance, as well as align with similar categories in other states.

Recommendation 21: Change the liquor licence definition of the Small Bar licence category to increase the capacity limit from 60 to 120 patrons.

Recommendation 22: Licence small bars solely through the small bar licence category to improve transparency.

Recommendation 23: Continue to apply exemptions from the liquor freeze to small bars (subject to saturation conditions and the environment and venue assessment tool).

ii. Live music and performance

Community support

Australian visitors, businesses and citizens support live music and performance and see it as a vital, positive aspect of Australia's cultural, economic and social identity. In research undertaken on behalf of Arts Victoria (now Creative Victoria), Deloitte Access Economics identified:

“It was overwhelmingly indicated that live music can have positive impacts for the community – 92% of patrons surveyed believe that live music in venues improves quality of life” – Deloitte Access Economics (2011)

As part of the development of the Live Music and Performance Action Plan, the City undertook similar research, which identified that the Sydney community specifically believes that live music builds an attractive and dynamic city. Ninety-four per cent of survey respondents, including general public, businesses and residents, believed it was important that action was taken to support live music and performance in Sydney. The overwhelming majority of respondents also agreed that live music and performance is an essential part of Sydney's identity as a creative and cultural city (94 per cent) and that it makes an important contribution to the city's economy (84 per cent).

Upon release of the draft Live Music and Performance Action Plan for community consultation, approximately 95 per cent of submissions received were in support of live music and performance, and the specific actions the City was proposing to undertake.

This community support for live music is well founded. In 2015 the City of Sydney collaborated with the University of Tasmania, City of Melbourne, South Australian Government, APRA and the Live Music Office to undertake further research into the value of live music.

Through this process it was identified that the economic value of live music in Australia is approximately \$2.1 billion, while the civic (jobs created and government taxation produced) and individual benefits (such as social capital and improved health and wellbeing) can be

valued at \$13.6 billion.²⁴ It identified an estimated 65,000 full and part-time jobs are created in Australia by expenditure on live music, with taxation revenue generated for all tiers of government, representing a 3 to 1 benefit to cost ratio.

The role of alcohol in supporting live music

The live music industry is heavily reliant on the hospitality sector, specifically the sale of food and beverage, including alcohol. This has been particularly the case in Australia since the 1970s, when live music began moving away from being staged in civic halls and into hotels and other licensed venues.

Unlike other cultural industries largely driven by commercial activity, such as film (investment in which is supported by the Australian Government's Producer Offset program), there are no Australian government programs providing direct financial stimulus to the Australian live music industry or aimed at reducing costs for live music venues. As such, the venues and organisations that facilitate live music generally must do so through solely commercial activities. Within this context, revenue generated by ticket sales is usually not sufficient to wholly sustain the operations of the premises that host it. Most small to medium venues are only able to sustain live music through cross-subsidy from the sale of food and beverage. Such venues implement live music in order to attract patrons, provide a point of difference and create a welcoming environment. This is further discussed within section iv. Tax Incentives – Live Music

Using data received from small to medium venues, research undertaken by Ernst & Young on behalf of APRA supports these assertions by demonstrating that around 83 per cent of venue income comes from food and beverage, while only 16 per cent is derived from ticket sales.

Corroborating this is the 2015 University of Tasmania report, which identified that around 29 per cent of audience spending on live music was directed at food and drink, as opposed to 19 per cent on ticket sales. The remaining expenditure was directed toward travel (17 per cent), accommodation (12.4 per cent), merchandise (7.6 per cent), communications (7.6 per cent), clothes (4.6 per cent) and memberships (1.7 per cent).

While food and beverage accounts for a greatest proportion of audience spend and venue income, studies have confirmed that the majority of people attending live music venues do so for the live music programming specifically. The 2011 study undertaken by Deloitte identified that 63 per cent of patrons interviewed were attending the venue specifically for this reason.

Given the live music industry's reliance on the hospitality industry outlined above, government regulation of liquor that reduces access to income for the live music industry and increases costs of compliance for live music venues can have a significant impact on the viability of the businesses that sustain it, especially in light of the predominance of small businesses within the industry (approximately 99 per cent, according to the 2013 report Valuing Australia's Creative Industries, produced by the Australian Government funded Creative Industries Innovation Centre).

Live music, alcohol consumption and anti-social behaviour

Live music has a significant positive effect on patrons' perception of licensed premises, and contributes to a more welcoming environment.

²⁴ University of Tasmania: The Economic and Cultural Value of Live Music in Australia
<http://livemusicoffice.com.au/wp-content/uploads/2015/08/LiveMusic-report-FINAL.pdf>

A 2011 Deloitte Access Economics report²⁵ commissioned by the Victorian Government raises this as follows:

“It was overwhelmingly indicated that live music can have positive impacts for the community – 92% of patrons surveyed believe that live music in venues improves quality of life, and 84% believe it provides a welcoming and safe environment. These findings are supported by evidence obtained through consultations, where it was suggested that live music in venues can be a solution to many actual or potential social issues through the social connections it creates. A number of participants noted that live music often draws the focus of the crowd away from alcohol consumption and towards the music performance – the specific reason for attendance at the venue for 63% of patrons.” – Deloitte Access Economics (2011)

In a study undertaken during development of the Live Music and Performance Action Plan²⁶, 82 per cent of respondents also agreed that “venues that offer live music and performance have a more welcoming and safer environment”.

There are a range of factors that have potential to contribute to increased alcohol consumption and anti-social behaviour in licensed premises, such as low comfort, aggressive security staff, patron demographics, alcohol price, crowding, ventilation, food service, ratio of patrons sitting to standing, provision of facilities and design of surrounding streetscapes.

Despite this complex range of factors, there is evidence that live music can play a role in reducing alcohol consumption and promoting positive patron behaviour. Anecdotal feedback from patrons and venue owners in this regard has been reflected in numerous studies identifying entertainment in a venue has the capacity to affect the rate of aggression²⁷.

In a qualitative study undertaken for Alcohol Research UK that interviewed musicians about their role in the licensed environment, it was also suggested that live music has the potential to provide a point of focus for patrons, thereby reducing the focus on consumption and the risk of anti-social behaviour.²⁸

“Although in some circumstances entertainment can foster disorderly behaviour, it can also help to preserve good order, by controlling drinkers’ moods or providing distraction from potential trouble”

Similarities can be found in the creation of the New Year’s Eve celebrations in Sydney, which, among other things, was initiated to improve safety on the night.

The City of Sydney is currently undertaking a pilot study on alcohol consumption by patrons at live music venues. The pilot study will investigate the feasibility and need for a larger study and inform directions for future research. As such, the project was designed to collect data from a small sample set and the preliminary findings of the research are not representative of the industry as a whole.

The pilot study comprises data on the sales of alcoholic beverages from eight small-to-medium sized live music venues during 16 events (two events per venue). At the time of

²⁵ Creative Victoria: The Economic, Social and Cultural Contribution of Venue Based Live Music in Victoria
http://creative.vic.gov.au/Research_Resources/Research_Reports/Live_Music_in_Victoria

²⁶ City of Sydney: Live Music and Performance Survey
http://www.cityofsydney.nsw.gov.au/__data/assets/pdf_file/0011/198884/140331_CCC_ITEM02_ATTACHMENT_C.PDF

²⁷ Homel & Tomsen, 1993; Forsyth & Cloonan, 2006; Hadfield, 2006 & 2009; Lennox & Forsyth, 2014

²⁸ Alcohol Research UK: Assessing the role that entertainers play in alcohol marketing and the maintenance of good order within on-trade licensed premises
http://alcoholresearchuk.org/downloads/finalReports/FinalReport_0124.pdf

writing, the study had not been completed, however data from seven venues and 13 events had been collected and analysed. Preliminary results from this data indicate that when a live music performance is in progress, alcohol consumption rates are significantly lower than when live music was either not programmed or was not in session. This finding was consistent during each event across all venues.

These initial results support the above-mentioned trends reported in literature that various forms of entertainment, including live music, appear to decrease the speed and quantity of alcohol consumed in licensed premises. Given the limitations of the pilot study, including the small sample size and the inability to measure the number of standard drinks consumed, further in-depth investigation is required.

Recommendation 24: That the review note the positive social and cultural benefits of live music, the community's positive perceptions of safety in licensed premises, as well as its potential to reduce alcohol consumption and anti-social behaviour.

Objects of the Liquor Act 2007

There is overwhelming community support of live music identified through research and consultation for the City's Live Music and Performance Action Plan. The available evidence that suggests well managed live music venues can make a significant positive contribution to the night-time economy. The City believes any measures introduced by government to address alcohol-related violence, national or otherwise, must include incentives to encourage licenced premises to invest in the live music industry. Such incentives may include exemptions from certain trading hour restrictions, reduced fees or consideration as a lower risk venue within processes such as environment and venue assessment tool.

This position is supported by the objects of the NSW Liquor Act 2007, which explicitly states support for the responsible growth of the live music industry as an object:

3 Objects of Act

(1) The objects of this Act are as follows:

- (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,*
- (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,*
- (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.*

It is currently unclear how this is being achieved in NSW, as incentives such as those described above do not currently exist.

Recommendation 25: Further investigate how support for live music is being achieved in NSW, as well as opportunities for this support to be increased.

e. Governance

A sustainable night-time economy is made up of component parts which operate together to establish an inviting and safe place for residents, workers and visitors. This necessitates a holistic approach which is far broader than liquor regulation.

There are multiple factors to consider when addressing the complex issue of alcohol-related violence. The City strongly supports an integrated approach to this issue, as stand-alone

measures undertaken by individual agencies are inherently limited in the potential positive impact they can deliver.

Industries which contribute to the night-time economy, including live music and the retail sector, are required to deal with a wide variety of areas of regulation across a range of government agencies. Uncoordinated approaches to industry regulation and development hamper successful implementation of programs designed to support these industries.

In regards to live music specifically, the review should note the following commitment within the NSW Government's Create in NSW: NSW Arts and Cultural Policy Framework, released in February 2015.

“We will work collaboratively with local councils, such as the City of Sydney. We will also work with the Office of Liquor, Gaming and Racing, Department of Planning & Environment, the NSW Environment Protection Authority (EPA) and the Office of the NSW Small Business Commissioner. Together, we will develop policy and regulatory settings to support the continued growth and vibrancy of music in NSW.”

Since the release of Create in NSW, the City has advocated consistently to the NSW Government that, in order for this commitment to be fulfilled, a mechanism that facilitates discussion across NSW Government departments, local government and industry will be required.

An excellent example of where a collaborative approach to industry regulation and development has been implemented in NSW is the NSW Food Regulation Partnership, overseen by the NSW Food Authority. Similarly, other states have addressed such challenges through the establishment of industry working groups that facilitate discussion between government and industry, such as the Victorian Live Music Roundtable.

The Lord Mayor has recently written to the Premier to request the establishment of a night-time economy taskforce or working group to oversee the development of a sustainable night-time economy.

Given the broad range of policy areas and industries that contribute to a dynamic night-time economy and culture, the Lord Mayor has proposed that such a group should focus on a range of subjects, including:

- efficient management of the city after dark;
- increasing transport availability and options;
- supporting business diversity, including support for the live music industry; and
- promoting and improving perceptions of Sydney after dark.

Recommendation 26: Establish a NSW Government-led working group to oversee the ongoing development of a sustainable night time economy.

f. Transport

The provision and management of safe late-night transport into, and most importantly, out of night-time trading areas can offer a key contribution to reducing the risk of alcohol-related violence. Poor availability of late-night transport means people are required to spend longer in the city after bars and nightclubs have closed. This leads to frustration and competition for scarce resources and unsafe methods of getting home. Such factors increase the potential for violence in the city and can render people more vulnerable to

assault on journeys. Scarcity or absence of transport also increases the risks of road traffic crashes, as intoxicated individuals attempt to walk or drive home after a night out.²⁹

The City has been hosting a Late Night Transport Working Group focusing on improving the accessibility and safety of late-night transport in the city. The group has been established for 18 months with representatives from NSW Police, Transport for NSW, NSW Taxi Drivers Association, NSW Taxi Operators and Drivers Association and City staff. In this time the group has been successful in establishing new secure taxi ranks staffed by security in late-night trading areas to enhance safety and ensure people can leave the area promptly at the end of their night. Also of vital importance is wayfinding to and from transport nodes, including advance notification to visitors arriving into the city at night on where and how they can get transport home. While this group has primarily been concerned with late-night taxi ranks, it would be more effective if covering the broad scope of public transport, with representation from all relevant transport agencies.

Tens of thousands of people are present in the city late at night, particularly on weekends. Despite this, public transport is limited and/or ceases. Trains stop long before businesses close. Night Ride buses replace trains when they cease service, but to move tens of thousands of people safely across metropolitan Sydney, other modes of transport operating on Friday and Saturday nights are needed.

Improving late-night transport, particularly the extension of train services on Friday and Saturday nights, is important for getting people home from the city quickly and safely.

Recommendation 27: Extend train services on Friday and Saturday nights to operate after venue closing time to get people home quickly and safely.

Recommendation 28: Establish a NSW government-led working group to oversee improvements in late-night transport and report to the overarching night-time economy working group.

g. Public space management

Public space management strategies can also reduce the opportunity for alcohol-related violence. These strategies can include the installation of CCTV cameras in night-time entertainment precincts, improved availability of public transport throughout the night, the deployment of ‘capable guardians’ in the public domain, most obviously Police Officers but also through programs such as the Safe Space Take Kare Ambassador program.

The City has been hosting a Night Time City Operations Group comprising representatives with responsibility for management of public space and transport at night including NSW Police, Trains, Buses and Taxis, Sydney Harbour Foreshore Authority, City Council 24 hour CCTV room, Precinct Liquor Accord Coordinators and Safe Space Take Kare Ambassador program. This group has been effective in establishing greater communication and coordination of agencies resources at night. This model works to reduce the risk of drug/alcohol affected people who are vulnerable of becoming a victim or perpetrator of crime through early intervention and coordination of resources.

Recommendation 29: Develop a guideline outlining a best practice model in public space management to reduce the risk of alcohol-related crime through early intervention and coordination of resources.

²⁹ Hadfield, P (2011)

h. Brief interventions

While this area is not within the usual scope of the operations of local government we acknowledge the importance of prevention and the potential to reduce pressure on the justice system through early intervention. The City's general comments on bail and penalties surrounding alcohol-related violence are outlined below.

Emergency departments are often the first service used by people affected by alcohol-related violence. Brief interventions used in these settings such as motivational counselling/interviews have been shown to help encourage 'safer' drinking behaviour.³⁰

Alcohol arrest referral schemes, where people who are detained in custody for alcohol-related offences are offered screening and brief intervention concerning their drug use, also may be an option. Clients who agree to receive the intervention could be offered a concession to any fines imposed.³¹ Other more sustained forms of treatment can be effective in community or criminal justice settings to change the behaviour of repeat offenders.

Recommendation 30: Establish a brief interventions and diversionary program that is integrated into the justice system to deal with alcohol-related anti-social behaviour and violence.

i. Research

Significant research has been undertaken across many policy areas relating to alcohol, liquor licensing and the night-time economy. Australia is a world leader in this field of research.

The Council of Capital City Lord Mayors has developed a research program that benchmarks the value of the Australian night-time economy, measuring the number of businesses, employment and revenue across the drinks, food and entertainment sectors.

Alcohol sales data is collected by the governments of Western Australia, Queensland, Northern Territory and ACT. Alcohol sales data provides valuable information for developing and evaluating alcohol policy and liquor licensing. Sales data is needed to measure the effectiveness of change in regulatory and legislative frameworks. Research³² by the National Drug and Research Institute demonstrates the value of collecting and releasing this vital and powerful level of information.

Understanding the impact of alcohol is critical. Central to this is the need for consistency between jurisdictions in collecting data on wholesale alcohol, alcohol-related accident and emergency admissions, ambulance call outs and criminal incidents. This data would provide the essential but often missing piece of information to inform local government planning and decision making. It would equip councils to provide informed input into liquor licensing and/or permit applications.

Recommendation 31: Establish authority within licensing legislation for government to investigate point-of-sale data to monitor the sale of alcohol at high impact premises.

Recommendation 32: That the NSW Government consult with the Federal Government to investigate data gathering standards that could be applied nationally to measure alcohol-related activities and impacts.

³⁰ Hadfield, P (2011)

³¹ Ibid

³² <http://ndri.curtin.edu.au/research/nasdp.cfm>

Attachments

OPEN Sydney Strategy and Action Plan

<http://www.cityofsydney.nsw.gov.au/find?q=open%20sydney%20strategy>

OPEN Sydney Discussion Paper

[http://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0018/131715/OpenDirecti
onsReportFinal.pdf](http://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0018/131715/OpenDirecti
onsReportFinal.pdf)

Live Music and Performance Action Plan

[http://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0007/232783/Final-Live-
Music-and-Performance-Action-Plan.pdf](http://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0007/232783/Final-Live-
Music-and-Performance-Action-Plan.pdf)

Creative City: Cultural Policy and Action Plan

[http://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0011/213986/Cultural-Policy-
and-Action-Plan-2014-2024.pdf](http://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0011/213986/Cultural-Policy-
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