



4 July 2019

The Hon. Natalie Ward MLC  
Committee Chair  
Joint Select Committee on Sydney's Night Time Economy  
Parliament of NSW  
Sydney NSW 2000

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*Via online portal*

Dear Ms Ward,

**Inquiry into Sydney's Night Time Economy**

The Sydney Business Chamber (SBC) welcomes the opportunity to provide a submission to the Joint Select Committee on Sydney's Night Time Economy.

The SBC is a division of the NSW Business Chamber and represents Sydney's leading organisations from the corporate, public and not-for-profit sectors. The Chamber is focused on developing and advocating measures that aimed at ensuring Sydney is a competitive and sustainable global city. The majority of Chamber members are based in the CBD and all are located within the Greater Sydney Basin.

Sydney's night time economy is a significant economic contributor, promoting employment and investment in culture and the arts beyond standard work hours. In the City of Sydney alone, the nighttime economy generates more than \$3.64 billion in revenue each year, with more than 4,600 businesses employing more than 32,000 people.

While our night time economy has continued to grow, since 2014 the imposition of significant regulatory restrictions on night time activity, most notably the introduction of lock out laws, has impacted on night time activity and the vibrancy of Sydney particularly in those areas where lock outs apply.

The SBC maintains that vibrant night time activity and the safety of visitors does not need to be an either/or proposition. The right regulatory framework combined with the required public transport and diversity of night time trade, can improve public safety and build Sydney's reputation as a global city.

## The current regulatory framework

We appreciate and support the terms of reference for this review examining more than the current liquor licensing framework for Sydney.

As we stated at the time of the Government's introduction of measures to combat a spate of violent incidents in and around the CBD:

*"To be able to attract visitors, and be a city popular with tourists, whether Australian or overseas, we need a reputation as a safe place to visit. We've had that reputation. The events of recent times in particular, and the media frenzy around those events, have put that at risk."*

Accordingly, the SBC welcomed the Government's tough measures to address alcohol related violence. It was appropriate, at the time, to send a strong message to the community that such violence was unacceptable and such behaviour would not be tolerated.

The changes introduced by the *Liquor Amendment Act (2014)* included:

- 1.30am lockouts at hotels, registered clubs, nightclubs and karaoke bars in two designated areas, known respectively as the Sydney CBD Entertainment Precinct and Kings Cross Precinct;
- 3.00am cessation of alcohol service in venues in these Precincts;
- A freeze on new liquor licenses and approvals for existing licenses across the Sydney CBD Entertainment Precinct and continuation of the existing freeze in the Kings Cross Precinct;
- A ban on takeaway alcohol sales after 10.00pm across NSW;
- The extension of temporary and long-term banning orders issued to designated 'trouble-makers' to prevent them entering most licensed premises in the Kings Cross and Sydney CBD entertainment precincts

The precincts restricted by these regulations are those bounded by Kings Cross, Darlinghurst, Cockle Bay, The Rocks and Haymarket.

The introduction of the laws was then followed by an independent review by the Hon Ian Callinan QC in 2016 ("the Callinan Review").

During the Callinan review, the SBC noted that while findings of the Bureau of Crime Statistics indicated the reforms provided an *"immediate and substantial reduction in assault in Kings Cross (down 32%) and a less immediate but substantial and perhaps ongoing reduction in assault in the Sydney CBD (down 26%)"*<sup>1</sup> the negative impacts of these reforms on night time patronage numbers, business activity, employment and the attractiveness of Sydney as a tourist destination means that a more sustainable solution to managing safety in the City needs to be considered.

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<sup>1</sup> [http://www.bocsar.nsw.gov.au/Pages/bocsar\\_media\\_releases/2015/mr\\_cjb183.aspx](http://www.bocsar.nsw.gov.au/Pages/bocsar_media_releases/2015/mr_cjb183.aspx)

Although the SBC supported the recommendations of the Callinan review (and ultimately accepted by the Government) to:

- Relax the 1.30am lockout and 3am last drinks measures for live entertainment venues to a 2am lockout and 3.30am last drinks for a two-year trial period.
- Extend the state-wide sale of takeaway alcohol from 10pm to 11pm.
- Extend the home delivery of alcohol from 10pm to midnight

We believe that a closer examination of the actual regulations (beyond shifting hours of operation) and whether they are effective and fit for purpose.

Feedback from SBC stakeholders has noted that businesses across industries in the lock out precincts have been adversely impacted by these measures. The Potts Point Partnership, which represents the business community in and around the Kings Cross precinct, has reported continued reductions in patronage due to the compounded effects of the lack of late night entertainment options and ongoing bad press regarding the precinct.

In a 2018 survey of businesses conducted by the Darlinghurst Business Partnership, local businesses reported that since 2016 there has been declines in employment (both in employment numbers and hours of work). While not all of this can be attributed to liquor licensing, it's clear that it has had a dampening effect on perceptions of the area and the confidence of business owners to invest and grow. Of those businesses surveyed, 88 per cent indicated that their turnover had reduced since the introduction of the lock out laws and only 16 per cent felt that their business was safe and secure. A summary of the results of this survey are attached to this submission.

The SBC believes that government should be revisiting all options, including investing in key services such as police, public transport and public amenities, and re-examining the provision of public safety through best practice spatial design. SBC makes a number of recommendations below which we believe can be made to the current regulations to better support a vibrant late night economy without unduly impacting on the safety of patrons and the wider community.

### **Pilot a trial exemption from the current 2.00am lock outs**

As outlined above, the package of reforms that were introduced under the *Liquor Amendment Act 2014* were wide ranging. While "lock outs" have been championed by some stakeholders as the driving force behind reducing violent incidents, it is not clear whether this is the case.

SBC believes that a pilot exemption from the current lock outs for all venues should be undertaken. Such a pilot would allow affected venues to demonstrate their compliance with general licensing obligations and overall safety performance. Under such a trial, where a venue can demonstrate appropriate management of safety and compliance over a six-month period, consideration of allowing changes to the last drinks rule should also be considered.

## **Improve late night transport**

While the Sydney CBD has relatively strong transport links, the Kings Cross precinct remains particularly underserved by public transport at night. A range of public transport options, with late running bus and train services, as well as clearly labelled taxi pick up and drop off points can assist in this regard.

In addition, SBC supports improving transport information through both signage (for example departure times for last trains from major CBD stations marked at entrances and exits of major City stations) and technology (text alerts with last service information).

## **Support the diversification of night time activity**

While changes in regulation in and of themselves cannot support business activity, regulation should not be applied in a way that discourages new and diverse trading activity. To that end, the SBC has been supportive of the City of Sydney council's development of a new framework to allow for 24 hour trade across the CBD precinct.

These changes have also seen an industrial area in North Alexandria earmarked as a 24-hour trading precinct to encourage its use as a future arts, culture and entertainment precinct. Such uses should be encouraged as an opportunity to develop niche festivals and exhibitions that can encourage greater visitation to the City.

In addition improving the amenity of entertainment areas through smart investments in lighting, public art and other activations can help improve the attractiveness and vibrancy of our city at night.

## **Increase Sydney's position as a global tourism destination**

As Australia's international gateway, it's critical that Sydney provide a visitor experience that is at least on par with other global destinations. The current level of regulation imposed within the lock out precincts however is limiting the capacity of venues and operators to provide nighttime experiences that meet the needs of visitors.

Recent research by travel comparison group traveloka rated Sydney's nightlife as last against a range of other global destinations<sup>i</sup>.

A review of international regulation undertaken by the SBC indicates that when compared to cities such as London, Tokyo, New York, Berlin and Shanghai, Sydney lags far behind in terms of both its regulatory support and leadership of its nighttime economy. Initiatives such as a dedicated night tzar, 24 hour transport and 24 hour trading provisions for restaurants and bars are ensuring that visitors to these destinations are able to experience the city and all it has to offer regardless of when they are exploring it.

An infographic outlining these differences follows.



## 24-Hour Cities



### LONDON

- NO TRADE RESTRICTIONS FOR SMALL SHOPS
- FLEXIBLE 24-HOUR LIQUOR LICENSING
- 24-HOUR TRANSPORT
- DEDICATED NIGHT CZAR, NIGHT-TIME COMMISSION AND CITY PLAN
- INCENTIVISED TRADE AFTER 6:00PM



### Berlin

- NO TRADE RESTRICTIONS FOR CLUBS, PUBS, BARS OR RESTAURANTS WHATSOEVER
- RETAILERS CAN TRADE 24-HOURS MONDAY - SATURDAY
- VIBRANT 24-FOOD SCENE
- 24-HOUR TRANSPORT



### Tokyo

- RELAXED LAWS AROUND SELLING AND CONSUMPTION OF ALCOHOL
- BARS OPEN UNTIL 6:00AM
- 24-HOUR RESTAURANTS AND FOOD MARKETS
- 24-HOUR ENTERTAINMENT



### New York

- INCREASING LIQUOR LICENSES YEAR-ON-YEAR BY 2%
- DEDICATED DEPARTMENT OF NIGHTLIFE
- NIGHT-TIME ADVISORY BOARD TO INCREASE AFTER-DARK VENUES
- ALCOHOL SERVED UNTIL 4:00AM
- 24-HOUR TRANSPORT



### Shanghai

- DEDICATED NIGHT-TIME DIRECTOR
- SPECIALISED NIGHT EXECUTIVES
- TOURIST SITES EXPECTED TO EXTEND HOURS
- ALMOST NO RESTRICTIONS ON HOURS OF PURCHASING ALCOHOL

## Recognise the role of new transport options

At the time of the introduction of the liquor law reforms, point to point transport in Sydney was still in its infancy. Point to point transport through services such as Uber has significantly changed the way patrons disperse from an area. Kings Cross in particular has had major issues at both taxi changeover times and with individual taxi drivers refusing to take smaller fares. This resulted in people who wished to leave the area or those that had been refused service remaining on congested footpaths.

As point to point transport apps such as Uber operate without a driver being able to refuse a fare on the basis of distance (a driver receives a notification of a passenger seeking a ride but is not advised of the destination until the passenger enters the vehicle via the app) and allows for passengers to report more easily on driver behavior it has helped ensure that patrons move on more quickly and easily after leaving a venue.

## Maintain strong oversight of venues in partnership with operators

Critical to ensuring the safety of the community is ensuring that license holders and venues meet their obligations particularly in relation to the responsible service of alcohol. While this should require tough oversight by regulators, we believe that compliance is best achieved when it is done in partnership with venues and operators.

Previous engagement by SBC on these issues has indicated strong concern from venues of the heavy handed approach of officers from the Liquor and Gaming NSW (L&GR NSW) especially in relation to the three strikes scheme. While license holders indicated that they appreciated the importance of license requirements (and accept penalties for major

infractions such as underage drinking or drug use at a licensed venue), some reported being given strikes under this policy for a minor infractions (such as litter being present at a venue).

Some licensees reported that they are reluctant to report minor incidents as the response from regulators was to more closely monitor the venue rather than support and identify improvements.

In addition some licensees reported examples of inexperienced licensing police coming into venues writing breach notices for incidents that were not valid, and grinning and high fiving each other leaving the premises. Licensees are reluctant to report this behaviour for fear of reprisal.

SBC believes that monitoring and enforcement is more effective when it operates in an environment of trust and support. While retaining its strong remedies for breaches, an engagement approach from L&GR NSW that works alongside venues to identify and solve issues should be encouraged.

### **Encourage community policing and introduce new restrictions on violent offenders**

Although the SBC notes the 2013 introduction into the NSW criminal code of the offence of "Assault Causing Death" (which provides minimum mandatory custodial penalties of up to 25 years in circumstances of one punch assaults), we remain concerned that many of those involved in these incidents have a long criminal history of violence.

While there has been a significant focus on license holders in modifying their operations in managing assaults within the lock out precinct, more can and should be done to ensure that violent persons are not allowed into these precincts.

To combat this, new, standard and mandatory bail and parole conditions should be placed on all violent offenders restricting their access to the Sydney entertainment precinct should be introduced.

Similarly a greater focus on community policing (by working with business and other community groups) and police engagement can help ensure that incidents are responded to a timely fashion and in a way that supports the visitor experience.

### **Support innovative solutions to help reduce street violence**

The SBC strongly supports looking at innovative solutions to help reduce street violence including through better spatial planning, lighting and visible street policing.

As was noted in the City of Sydney's Late Night management Areas Research report:

*"There is a relationship between congestion and antisocial behaviour throughout the evening and night, with the exception of a distinctive peak in ASB at 3am, despite gradually decreasing congestion"*<sup>ii</sup>



As has been consistently demonstrated during key festivals and events (for example Vivid and New Year's Eve) closing off CBD streets to traffic in the evening can have a dramatic effect on rates of anti-social behaviour. Activating these areas with lighting and late night entertainment as well as a visible police presence can help reduce instances of anti-social behaviour in these areas without impacting on the vibrancy of the late night economy.

To this end, the SBC is encouraged by the efforts of the Designing Out Crime team at UTS. Designing out Crime works with Government partners to utilise planning and design decisions to help reduce the potential for anti-social behavior. The SBC notes Designing out Crime's previous work with the City of Sydney and would encourage this partnership to continue.

### **No further expansion of lock-out precincts**

As noted above, the SBC does not see the current regulatory framework for liquor licensing in the CBD or Kings Cross precincts as a viable long term solution to addressing anti-social behaviour in our City.

Accordingly, at a base level, the SBC does not believe that the current Liquor Laws should expand beyond the currently affected precincts.

While Government may develop, in conjunction with industry, location based strategies to address alcohol related violence, regulatory frameworks should not be applied, as they currently are, as a blunt instrument on an area. Instead, regulatory frameworks should be based on the variables of a venues risk, mitigation measures and safety performance.

Additionally, the SBC recognises that despite the potential for the lock out laws to simply move anti-social behaviour outside of the nominated precincts, this has not occurred in a statistically meaningful way.

In this light, Government should be looking to help facilitate the sharing of strategies between venues on Responsible Service of Alcohol (RSA), security strategies, community and police engagement and how these measures can serve to provide safe late night experiences for patrons, residents and local businesses.

Thank you for the opportunity to provide input into this review. If you have any further questions in relation to this submission, please feel free to contact me via [katherine.oregan@thechamber.com.au](mailto:katherine.oregan@thechamber.com.au) or on 9350 8101.

Yours sincerely,

**Katherine O'Regan**  
**Executive Director**

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i <https://www.traveloka.com/special/nightlife-capitals>

ii [http://www.cityofsydney.nsw.gov.au/\\_data/assets/pdf\\_file/0011/250202/2015-541941-Report-Late-Night-Management-Areas-Research-Final.pdf](http://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0011/250202/2015-541941-Report-Late-Night-Management-Areas-Research-Final.pdf)