

# **POLICE ASSOCIATION OF NSW**

## **Submission to the Review of the *Liquor Act 2007* and the *Gaming and Liquor Administration Act 2007***

### **SUMMARY OF RECOMMENDATIONS**

- 1. The Police Association of NSW (PANSW) endorses the NAAPA submission to the review and supports the recommendations contained in that submission.**
  
- 2. The PANSW proposes the following:**
  - a. The imposition of a maximum closing time of 3.00 am am for all hotels across the state (unless a current earlier closing time has already been imposed).**
  - b. The imposition of a lockout from 1am for all hotels across the state (unless a current earlier lockout has already been imposed).**
  - c. The development of a model management plan based on the Newcastle trial to be adopted by all licensed venues.**
  - d. The prohibition of the sale of shots, mixed drinks with more than 30mls of alcohol and ready mixed drinks stronger than five per cent alcohol by volume after 10.00pm.**
  
- 3. The PANSW recommends the adoption of a minimum pricing model for the sale of alcohol in NSW.**
  
- 4. The PANSW recommends that OLGA and ILGA be abolished and a new, independent body be constituted under the appropriate Acts, with a re-drawn set of objectives to manage licensing of alcohol outlets and premises. Further, this body should have a clear and transparent set of procedures that allow for consultation with the community and interested bodies, such as police and emergency services. Licences should be reviewed and re-issued on at least a biennial time frame.**
  
- 5. The PANSW further recommends that an independent judicial body be established that hears and determines appeals against the decisions of the licensing body, and determines complaints regarding licensing issues.**

## **INTRODUCTION**

The Police Association of NSW is the registered trade union representing sworn police officers in NSW. The Association is a member of the NSW and ACT Alcohol Policy Alliance (NAAPA).

We adopt and endorse the recommendations contained in the NAAPA submission to this review.

We take this opportunity to make some specific submissions regarding the concerns of our membership regarding the impact of the current legislative regime for the management of the supply of alcohol and to make a further recommendation regarding the oversight of this regime. We are especially concerned about the impact on police and the public of alcohol-fuelled violence as a result of the uncontrolled access to alcohol in our communities.

## **ASSAULTS AGAINST POLICE**

The Police Association conducted research (funded by WorkCover NSW) into assaults against police over a 5 year period (2005-2010). The results of this research are alarming. A total of 16,423 assault officer incidents were recorded in NSW between 2005 and 2010, or an average of 2,737 assault officer incidents reported per year. Across the state, on average one in every four operational police officers was assaulted each year.

Alcohol related incidents represent 70% of all assaults on police and have a huge bearing on explaining assaults on police. For both weekends and weekdays, alcohol related incidents were more likely to occur late at night or early the following morning. In particular, the 3-hours on either side of Friday midnight and Saturday midnight present manifestly high risk times for police to be assaulted by an alcohol fuelled offender. Eighty percent of weekend assaults on police were recorded as alcohol related. In terms of at risk periods, Friday evening and the start of the weekend, assault officer incidents increase substantially. The 3-hour periods before and after midnight on Fridays and Saturdays were the peak periods for police being assaulted.

Record numbers of police officers are being subjected to violent assault from intoxicated offenders, especially in the early hours of the morning. Far more disturbing is the number of other frontline emergency services workers who are also the subject of alcohol fuelled assaults – ambulance officers, nurses and doctors who are simply attempting to give assistance and care to those who have been injured as a result of the effects of alcohol.

In October 2009, the LHMU (representing ambulance officers in Queensland) reported:<sup>1</sup>

***“Alcohol fuelled violence continues to see paramedics put at risk across Queensland. Assaults have increased in excess of 50% since 2002, becoming increasingly violent with perpetrators resorting to the use of weapons in some cases. It is a sad indictment that in 2008-09, 107 assaults were reported against paramedics who for six years in a row have been identified as society’s most trusted professionals.”***

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<sup>1</sup> <http://www.lhmu.org.au/news/ambulance-officers-at-risk-as-alcohol-fuelled-violence-continues>

In 2008-09, 120 paramedics were assaulted in NSW - up more than 60 per cent on 2006-07 figures.

In December 2009, the Australian reported:<sup>2</sup>

***“Public hospitals should introduce "panic buttons" in emergency wards to help nurses combat an increasing number of assaults from drunk and drug-affected patients. The Australian Nursing Federation said its members were being scratched, hit, kicked, bitten, verbally abused and spat at by patients.....As drug and alcohol abuse spills from the streets and into our emergency rooms and hospitals, you find a growing number of people who seem to believe they can get away with violent and aggressive behaviour against nursing staff who are caring for them.”***

In 2005, the Medical Journal of Australia reported that

*“two Australian studies found that over 60 percent of nurses had experienced violence in the workplace in the recent past ...the experience of violence at work seems to be a universal experience for ED (Emergency Department) nurses, with almost 90 percent experiencing physical intimidation or assault at some point in their career....Up to 50 percent of episodes are associated with alcohol or drugs, and the timing of violence is almost certainly related to social patterns of use of such substances, with violence occurring more commonly during the evening shift and at weekends.”<sup>3</sup>*

From January to December 2008, 6,370 non-domestic assaults against members of the public were recorded as occurring inside licensed premises. This number represents 15 percent of all recorded non-domestic assaults in NSW. Another 19,456 non-domestic assaults occurred in public places, retail areas or car parks. Given that many recorded non-domestic assaults happen shortly after patrons have left licensed premises, it is reasonable to assume that a number of these latter assaults are also linked to licensed premises.

Fifty six percent of all liquor offenses in NSW (10,185) in 2008 occurred on licensed premises – a number that would indicate a serious failing of the licensees to take the responsible service of alcohol laws seriously. A further 6,955 liquor offenses occurred outdoors – some, no doubt as a result of the sale of alcohol from licensed premises.

From 2004 to 2008 there has been an alarming growth in the number of alcohol-related non-domestic violent incidents – an average annual increase of 6.4 percent, from 15,398 in 2004 to 19,735 in 2008.

These numbers confirm what is already known – that a great deal of violence occurs in and around licensed premises.<sup>4</sup> Research also shows that the peak time for violent offending is weekend nights and the peak location is in and around pubs and clubs.<sup>5</sup>

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<sup>2</sup> <http://www.theaustralian.com.au/news/nation/nurses-want-protection-from-violent-patients/story-e6frg6nf-1225807510989>

<sup>3</sup> Kennedy, MP “Violence in emergency departments: unreported, unconstrained and unconscionable” MJA 2005; 183(7) 362-365

<sup>4</sup> Graham, K et al. 1980 “Aggression and Barroom Environments” *Journal of Studies on Alcohol*, vol.41, pp277-92

With the exception of a significant research paper by BOCSAR which will be referred to later, there is a dearth of recent research throughout the world on the impact of opening hours on violent crime. Nevertheless, in a review of international research on the impacts of changes to trading hours of licensed premises<sup>6</sup>, the authors concluded:

*“Although further well-controlled studies are needed, it is concluded that the balance of the present evidence (taking into account the relative reliability of the studies and their outcomes) suggests that under most circumstances, increasing trading into the early hours for on-premise liquor consumption licenses will result in increased alcohol use and related harms such as violence.....It can be concluded overall that studies with stronger designs were more likely to find positive relationships between changes in on-premise trading hours and rates of alcohol consumption and related harms.”*

It is clear that we have a very serious problem concerning abuse of alcohol and violent behavior.

## **THE EFFECT OF OPENING HOURS ON ALCOHOL-FUELED VIOLENCE**

### **Newcastle**

In March 2008, as a result of a complaint against four Newcastle hotels and growing community concern about alcohol-related violence in and around the Newcastle CBD, the NSW Liquor Administration Board (LAB) imposed a number of restrictions on 14 licensed premises in Newcastle. The most significant of these restrictions were:

1. The imposition of a lockout from 1am for all 14 hotels; and
2. Bringing forward the closing time to 3am for the 11 premises that were previously licensed to trade until 5am and to 2:30am for the three premises that had previously been licensed to trade until 3am.

A number of additional restrictions were imposed on all 14 hotels:

3. A requirement that licensees produce a Plan of Management within six weeks of the ruling;
4. A requirement that licensees arrange for independent audits to be carried out on a quarterly basis to ensure compliance with this Plan of Management;
5. A requirement that licensees employ a supervisor to be on the premises from 11pm until closing with the sole purpose of monitoring responsible service of alcohol;
6. A prohibition on the sale of shots, mixed drinks with more than 30ml of alcohol, ready mixed drinks stronger than 5 per cent alcohol by volume after 10.00pm;

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<sup>5</sup> Finney, A 2004 -Violence in the night-time economy: key findings from the research Home Office, UK

<sup>6</sup> Stockwell, T & Chikritzhs, T 2009 -Do relaxed trading hours for bars and clubs mean more relaxed drinking? A review of international research on the impacts of changes to permitted hours of drinking Crime Prevention and Community Safety vol11, no3, 153-170

7. A prohibition on the sale of more than four drinks to any patron at one time and a requirement to provide free water stations on every bar;
8. A requirement that licensees ensure patrons not stockpile drinks;
9. A requirement that the sale of alcohol cease 30 minutes prior to closing time;
10. A requirement that licensees notify all staff members of these restrictions within 14 days;
11. A requirement that each of the licensees enter into an agreement to share a radio network to enable management and security of each hotel to communicate with one another.

Such restrictions on licensed premises were unheard of in NSW and rare throughout the world.<sup>7</sup> The NSW Bureau of Crime Statistics and Research (BOCSAR) undertook an evaluation of the trial. The evaluation aimed to assess:

1. Whether the trading hour restrictions had any impact on the total number of alcohol-related assaults in and around the Newcastle CBD;
2. Whether there was any geographic displacement of alcohol-related assaults to areas neighbouring the Newcastle CBD; and
3. Whether the restrictions had any impact on the time of day upon which assaults were recorded as occurring in the Newcastle CBD.

The closest major centre of licensed premises to the Newcastle CBD is Hamilton, a suburb some 4 kilometres away. No restrictions were placed on Hamilton licensed premises and data from Hamilton were compared to the Newcastle CBD for the study period (from 1 April 2004, before the trial, to 31 March 2009).

The BOCSAR study found a 29% reduction in assaults in the CBD. A longer study by a group from the University of Newcastle found In the CBD, recorded assaults fell from 99.0 per quarter before the restriction to 67.7 per quarter afterward . In the same periods in Hamilton, assault rates were 23.4 and 25.5 per quarter, respectively . The relative reduction attributable to the intervention was 37% and approximately 33 assault incidents were prevented per quarter. This study indicates that a restriction in pub closing times to 3/3.30 a.m. in Newcastle, NSW, produced a large relative reduction in assault incidence of 37% in comparison to a control locality.

The study can be found at:

<http://onlinelibrary.wiley.com/doi/10.1111/j.1360-0443.2010.03125.x/full>

Recorded crime and linking data revealed a significant reduction in alcohol-related assaults in the Newcastle CBD but not in Hamilton. There was no evidence of any geographic displacement of assaults to other licensed premises or neighbouring areas. This is an important result, as an argument against reducing opening hours is that assaults will simply

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<sup>7</sup> Jones, C et al. 2009 -the impact of restricted alcohol availability on alcohol-related violence in Newcastle, NSW *Crime and Justice Bulletin* No 137 NSW Bureau of Crime Statistics and Research

be displaced to other locations where the restrictions do not apply.

All data sources revealed a significant decrease in the proportion of assaults occurring after 3am in the intervention site but not in the comparison sites.

Collectively, the data provides strong evidence that the restricted availability of alcohol reduced the incidence of assault in the Newcastle CBD.

It must be kept in mind that these outcomes occurred from a mere 2 hour change in closing hours (from 5 am to 3 am). For most patrons, this was not a significant imposition.

At the same time that the Newcastle Reforms were occurring, Associate Professor Peter Miller was studying the night-time economy of Geelong, Victoria and comparing the incidence of illicit substance use and harm in these two locations. An unexpected result that Prof Miller discovered was that there was a probable flow-on impact on the amount of pre-loading consumption of alcohol as a result of the Newcastle restrictions. In a nutshell, heavier levels of pre-drinking were declining in Newcastle during study period, in contrast to Geelong where the heavier levels were increasing. There were no Newcastle-like restrictions in Geelong at this time.

Further study needs to occur to determine the effect of the restrictions on pre-loading (this was not a major focus of Miller's study), but the Geelong data is encouraging.

### **The UK**

At the same time, at the other side of the world, at the end of 2005, the UK government relaxed licensing laws to allow 24 hour trading in licensed premises. In February 2008, the Daily Mail reported that there had been a 25 percent rise in serious violent offences in the early hours of the morning since the relaxation of trading hours.<sup>8</sup> A survey of 30 police forces showed that crimes between 3 am and 6 am were up by 22 percent. There was also a 25 percent increase in serious violent offences for the same time period.<sup>9</sup>

The Institute of Alcohol Studies in 2007<sup>10</sup> reported the following:

*A minimum of 1 in 5 people arrested by police test positive for alcohol. An All Party Group of MPs investigating alcohol and crime was advised by the British Medical Association that alcohol is a factor in:*

- *60-70% of homicides*
- *75% of stabbings*
- *70% of beatings*
- *50% of fights and domestic assaults*

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<sup>8</sup> [www.dailymail.co.uk/news/article-518230](http://www.dailymail.co.uk/news/article-518230)

<sup>9</sup> Hough, M et al., 2008, 'The impact of the Licensing Act 2003 on levels of crime and disorder: an evaluation', *Research Report 04*, Home Office

<sup>10</sup> Institute of Alcohol Studies, Factsheet 'Alcohol and Crime' 24<sup>th</sup> July 2007

## **WHAT WORKS AND WHAT DOESN'T**

Recent research by the World Health Organisation (WHO) and the National Drug Research Institute (NDRI) looks at interventions throughout the world and the evidence for success in the reduction of alcohol-related harm. Both studies show that reducing access to alcohol through hours of sale and density of outlets have a strong evidence base for effectiveness. There is also evidence that strong enforcement of RSA and liquor accords can have a positive impact. Education and warning labels, on the other hand, have no effectiveness in the reduction of alcohol-related harm.

Since the introduction of the Newcastle restrictions, as well as the 37% reduction in the number of night-time non-domestic assaults, there has been a 50% reduction in the number of night-time street offences and a 26% reduction in the number of night-time assault-related injury emergency department presentations at lower Hunter hospitals. Of great significance is that these reductions have been maintained over the time that the restrictions have been in place.

One of the effects of reducing opening hours is that the drinking period is brought forward and the likelihood of pre-loading is reduced. One in ten people surveyed in a Deakin University research project said they drank more than 11 standard drinks before reaching a venue, while some reported having as many as 25.

The data was collected as part of Australia's largest study into alcohol-related night-time crime which also looked at the effectiveness of licensing regulations in Newcastle. The study's lead author, Associate Professor Peter Miller, said it is extremely common for people to drink at least six drinks before going out.

One of the major findings was that a lot of people are pre-loading and that predicts greater experience of violence. If you have more than six drinks before you go out you are twice as likely to experience violence.

**The Police Association has for a long time proposed the following:**

- 1. Impose a maximum closing time of 3:00 am for all hotels across the state (unless a current earlier closing time has already been imposed).**
- 2. Impose a lockout from 1am for all hotels across the state (unless a current earlier lockout has already been imposed).**
- 3. Develop a model management plan based on the Newcastle trial to be adopted by all licensed venues.**
- 4. Prohibit the sale of shots, mixed drinks with more than 30mls of alcohol and ready mixed drinks stronger than five per cent alcohol by volume after 10.00pm.**
- 5. Engage BOCSAR to evaluate the impact of these measures on violent crime.**

### **Minimum Pricing**

As mentioned above, the problem of pre-loading has a serious impact on the potential for violent outcomes. One way to reduce this effect is to bring forward the evening by reducing opening hours. Another solution, according to Associate Professor Miller would be to make the practice less affordable by charging bottle shops a levy. Currently all of the very cheap liquor being sold from the very large packaged liquor outlets contributes to harm but it

doesn't actually contribute to any of the measures that ameliorate that harm, such as the security, police out at night, people in emergency departments.

In Australia, the real price of some alcohol products (wine, in particular) has dropped significantly over the past decade, the affordability of alcohol (i.e. the ratio of real disposable income to real alcohol prices) has increased by over 40% between 1995 and 2008<sup>11</sup> and alcohol is sometimes sold below cost.<sup>12</sup> The power of the major liquor retailers to sell cheaper brands at below cost is destroying competition and providing large amounts of cheap alcohol to those who are engaging in risky drinking.

A minimum (or floor) price sets a minimum price per standard drink (or unit of alcohol) that alcoholic beverages must be sold for. The effect of a minimum price would be to increase takings and profits for some alcohol retailers and producers, unlike an alcohol tax increase in which the increased revenue would go to the Government. Unlike an increase in excise, a minimum price cannot be circumvented by discounting, loss-leading or below cost selling.<sup>13</sup> It would remove the ability of the large chains to use their purchasing power to sell below cost – this would, in effect, be illegal.

A 2009 University of Sheffield modelling study<sup>14</sup> showed that the effect of a minimum pricing policy with a ban on liquor store discounting at the lower end would have a significant impact on hazardous drinking, alcohol-related hospital admissions and deaths and violent incidents. The higher the minimum price, the higher the benefits. Consumer spending will increase, but not in proportion to the amount of the minimum pricing – a factor that impacts especially on those inclined to binge and hazardous drinking.

In early 2012, the Scottish Parliament requested an updated version of the Sheffield Study with the aim to re-examine the effect of a 45 pence minimum price. The updated model found that weekly alcohol consumption would decrease by 3.5 per cent, with alcohol-attributable deaths reducing by an estimated 68 within the first year, and 354 fewer deaths per annum after 10 years. This decrease in consumption and health gains were found to be greater for harmful drinkers than moderate drinkers.<sup>15</sup> This is because minimum pricing policies target alcohol products, which are often purchased by heavier drinkers, over

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<sup>11</sup> Carragher N and Chalmers J. *What are the options? Pricing and taxation policy reforms to redress excessive alcohol consumption and related harms in Australia*. NSW Bureau of Crime Statistics and Research. Sydney Australia. <http://ndarc.med.unsw.edu.au/publication/what-are-options-pricing-and-taxation-policy-reforms-redress-excessive-alcohol>

<sup>12</sup> Dooley A. Bottleshop prices: Australia's liquor market is dominated by Coles and Woolies, demolishing competition and squeezing out the smaller players. *Choice online*. 31 May 2010. <http://www.choice.com.au/reviews-and-tests/money/shopping-and-legal/shopping/bottleshops.aspx>

<sup>13</sup> Carragher, N and Chalmers, J (2011). *What are the options? Pricing and taxation policy reforms to redress excessive alcohol consumption and related harms in Australia*. Published by NSW Bureau of Crime Statistics and Research. Available online at: [http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll\\_bocsar.nsf/pages/bocsar\\_pub\\_byyear](http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/pages/bocsar_pub_byyear)

<sup>14</sup> Robin Purshouse, Yang Meng, Rachid Rafia and Alan Brennan *Model-Based Appraisal Of Alcohol Minimum Pricing And Off-Licensed Trade Discount Bans In Scotland*

<sup>15</sup> Scharr (2012) Model based appraisal of alcohol minimum pricing and off licensed trade discount bans in Scotland: A Scottish adaptation of the Sheffield Alcohol Policy Model version 2. University of Sheffield: Scotland.

moderate drinkers.<sup>16</sup> The revised model also found that a 45 pence minimum price would increase a moderate drinker's annual alcohol expenditure by £6, but a harmful drinker's by £98.

The World Health Organization expert committee on Problems Relating to Alcohol Consumption concluded that "policies that increase alcohol prices have been shown to reduce the proportion of young people who are heavy drinkers, to reduce underage drinking, and to reduce per occasion binge drinking. Higher prices also delay intentions among younger teenagers to start drinking and slow progression towards drinking larger amounts".<sup>17</sup>

The price differential between cheap alcohol from liquor stores and drinks in licensed premises has been identified as a factor contributing to the practice of "pre-loading" at home before visiting licensed premises. A minimum price on alcohol, which would be expected to have a greater impact on the price of packaged liquor than on premise liquor prices, may be effective in reducing the price differential between the two forms of alcohol sales and thereby reduce the financial incentive for 'pre-loading.'

A key rationale of minimum alcohol pricing (or floor price) – whereby alcohol is priced per unit of 10 millilitres of alcohol – is that it would target heavy drinkers and young people, as consumers of this type tend to consume stronger and cheaper products.

In Australia, the National Preventative Health Taskforce maintains that minimum pricing would aim for a real shift in per capita consumption rather than merely product preference.

**The Association recommends the adoption of a minimum pricing model for the sale of alcohol in NSW.**

### **THE ROLES OF ILGA AND OLGA**

It is clear from the evidence and the research that the key to addressing alcohol fuelled violence in the community is to deal with issues of availability – specifically opening hours, outlet density and alcohol concentration. These are matters specifically relating to oversight, and licensing.

As noted in the NAAPA submission, the NSW regime for licensing is complex, inconsistent, non-transparent and characterised by substantial delay in decision-making.

These characteristics have combined to have the effect of alienating local residents and police to such an extent that confidence in the ability of OLGA and ILGA to carry out their functions has been seriously eroded. The proliferation of alcohol-fuelled incidents resulting

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<sup>16</sup> Purshouse, R., Meier, P., Brennan, A., Taylor, K & Rafia, R (2010) Estimated effect of alcohol pricing policies on health and health economic outcomes in England: an epidemiological model. *The Lancet*. 375(9723):1355-1364

<sup>17</sup> World Health Organization (2007). *Expert committee on problems related to alcohol consumption, Second report*. WHO Technical Report Series 944, provisional edition. World Health Organization, Geneva. Accessed 2 October 2012 via: [www.who.int/substance\\_abuse/activities/expert\\_comm\\_alcohol\\_2nd\\_report.pdf](http://www.who.int/substance_abuse/activities/expert_comm_alcohol_2nd_report.pdf)

in serious injury (and on occasion, death) to members of the public and emergency services personnel has sparked a reaction in the public eye – there is an expectation that government needs to move to protect its citizens.

Apart from the fairly moderate proposals we have suggested to address alcohol and violence, it is clear that a new structure is required to manage the supply of alcohol responsibly. This structure needs to be independent of government and removed from any perceived possibility of influence from vested interests.

**Therefore:**

**We recommend that OLGA and ILGA be abolished and a new, independent body be constituted under the appropriate Acts, with a re-drawn set of objectives to manage licensing of alcohol outlets and premises. Further, this body should have a clear and transparent set of procedures that allow for consultation with the community and interested bodies, such as police and emergency services. Licences should be reviewed and re-issued on at least a biennial time frame.**

**The body that issues licences should not also be the body that determines appeals and hears complaints. To address this, we further recommend that an independent judicial body be established that hears and determines appeals against the decisions of the licensing body, and determines complaints regarding licensing issues.**