

Liquor and Other Legislation Amendment Bill 2017

Report No. 48, 55th Parliament

Legal Affairs and Community Safety Committee

February 2017

Legal Affairs and Community Safety Committee

| | |
|---------------------------|---|
| Chair | Mr Duncan Pegg MP, Member for Stretton |
| Deputy Chair | Mr Michael Crandon MP, Member for Coomera |
| Members | Ms Nikki Boyd MP, Member for Pine Rivers Mr Don Brown MP, Member for Capalaba Mr Jon Krause MP, Member for Beaudesert Mrs Janet (Jann) Stuckey MP, Member for Currumbin |
| Committee Staff | Mrs Emily Booth, A/Research Director Mr Gregory Thomson, Principal Research Officer Ms Kelli Longworth, Principal Research Officer Mrs Janette van den Berg, A/Committee Support Officer |
| Technical Scrutiny | Ms Renee Easten, Research Director |
| Secretariat | Mr Michael Gorringer, Principal Research Officer Ms Marissa Ker, Principal Research Officer Ms Lorraine Bowden, Senior Committee Support Officer |
| Contact Details | Legal Affairs and Community Safety Committee Parliament House George Street Brisbane Qld 4000 |
| Telephone | +61 7 3553 3553 |
| Fax | +67 7 3553 6699 |
| Email | lacsc@parliament.qld.gov.au |
| Web | www.parliament.qld.gov.au/work-of-committees/committees/LACSC |

Contents

| | |
|---|------------|
| Abbreviations..... | ii |
| Chair’s Foreword | iii |
| Recommendations..... | 1 |
| 1 Introduction | 2 |
| 1.1 Role of the committee | 2 |
| 1.2 Inquiry process | 2 |
| 1.3 Policy objectives of the Bill | 2 |
| 1.3.1 Objectives of the Bill..... | 2 |
| 1.3.2 Background..... | 3 |
| 1.3.3 Consultation on the Bill | 3 |
| 1.3.4 Outcome of committee considerations | 4 |
| 2 Examination of the Bill | 5 |
| 2.1 Repealing the lock out provisions | 5 |
| 2.1.1 Proposals in the Bill | 5 |
| 2.1.2 Stakeholder views..... | 5 |
| 2.2 Repealing the 3am Safe Night Precincts model | 7 |
| 2.2.1 Proposals in the Bill | 7 |
| 2.2.2 Stakeholder views..... | 8 |
| 2.3 Winding back trading hours for licensees removed from an SNP due to a boundary change | 8 |
| 2.3.1 Proposals in the Bill | 8 |
| 2.3.2 Stakeholder views..... | 8 |
| 2.4 Tightening the temporary late-night extended hours permit regime | 9 |
| 2.4.1 Proposals under the Bill..... | 9 |
| 2.4.2 Stakeholder views..... | 9 |
| 2.5 Extending banning order sentencing regime to prescribed drug offences | 12 |
| 2.5.1 Proposals in the Bill | 12 |
| 2.5.2 Stakeholder views..... | 12 |
| 2.6 ID Scanners..... | 13 |
| 2.6.1 Proposals in the Bill | 13 |
| 2.6.2 Stakeholder views..... | 13 |
| 3 Compliance with the <i>Legislative Standards Act 1992</i>..... | 15 |
| 3.1 Fundamental legislative principles..... | 15 |
| 3.1.1 Rights and liberties of individuals - Section 4(2)(a) <i>Legislative Standards Act 1992</i> | 15 |
| 3.1.2 Does the Bill impose obligations retrospectively? – Section 4(3)(g) <i>Legislative Standards Act 1992</i> | 16 |
| 3.2 Explanatory notes | 18 |
| Appendix A – List of submitters | 19 |
| Appendix B – Witnesses at the public hearing..... | 21 |
| Statement of Reservation | 22 |

Abbreviations

| | |
|-------------------|---|
| Attorney-General | The Hon Yvette D’Ath MP, Attorney-General and Minister for Justice and Minister for Training and Skills |
| Bill | Liquor and Other Legislation Amendment Bill 2017 |
| Broadbeach SNP | Broadbeach Safe Night Precinct Association |
| CCIQ | Chamber of Commerce and Industry Queensland |
| department | Department of Justice and Attorney-General |
| FARE | Foundation for Alcohol Research and Education |
| FLP | Fundamental legislative principle |
| Interim Report | An interim evaluation report prepared by the Institute for Social Science Research which examined the impact of the changes introduced by the TAFV Act between 1 July 2016 and 31 December 2016 |
| LSA Act | <i>Legislative Standards Act 1992</i> |
| Liquor Act | <i>Liquor Act 1992</i> |
| Liquor Regulation | Liquor Regulation 2002 |
| QCAA | Queensland Coalition for Action on Alcohol |
| SNP | Safe Night Precinct |
| TAFV Act | <i>Tackling Alcohol-Fuelled Violence Act 2016</i> |
| TAFV Bill | Tackling Alcohol-Fuelled Violence Bill 2015 |
| TAFV Policy | Tackling Alcohol-Fuelled Violence Policy |

Chair's Foreword

This Report presents a summary of the Legal Affairs and Community Safety Committee's examination of the Liquor and Other Legislation Amendment Bill 2017.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles – that is, to consider whether the Bill had sufficient regard to the rights and liberties of individuals, and to the institution of Parliament.

The committee recommends that the Bill be passed.

On behalf of the committee, I thank those individuals and organisations who lodged written submissions on the Bill and appeared at the public hearing. I also thank the committee secretariat for the support they have provided during this inquiry.

I commend this report to the House.

A handwritten signature in blue ink, reading "D. Pegg". The signature is stylized, with a large "D" and a cursive "Pegg".

Duncan Pegg MP

Chair

Recommendations

Recommendation 1.....4

The committee recommends that the Liquor and Other Legislation Amendment Bill 2017 be passed.

1 Introduction

1.1 Role of the committee

The Legal Affairs and Community Safety Committee (the committee) is a portfolio committee of the Legislative Assembly which commenced on 27 March 2015 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.¹

The committee's primary areas of responsibility include:

- Justice and Attorney-General
- Police Service
- Corrective Services
- Fire and Emergency Services, and
- Training and Skills.

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each bill and item of subordinate legislation in its portfolio areas to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles, and
- for subordinate legislation – its lawfulness.

1.2 Inquiry process

On 14 February 2017, the Hon Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for Training and Skills (Attorney-General) introduced the Liquor and Other Legislation Amendment Bill 2017 (Bill) into the Legislative Assembly. In accordance with Standing Order 131 of the Standing Rules and Orders of the Legislative Assembly, the Bill was referred to the committee for consideration. The committee was required to report to the Legislative Assembly by 24 February 2017.

The committee invited stakeholders to make written submissions to its inquiry on 15 February 2017, with a closing date of 17 February 2017.

The committee received 25 submissions from stakeholders (see **Appendix A**).

The committee heard from witnesses invited to give evidence and respond to questions on the Bill at a public hearing on 22 February 2017 at Parliament House in Brisbane. See **Appendix B** for details of the witnesses at the public hearing undertaken as part of the inquiry process.

1.3 Policy objectives of the Bill

1.3.1 Objectives of the Bill

The objective of the Bill is to address the findings of the *Tackling Alcohol-Fuelled Violence Legislation Amendment Act 2016* (TAFV Act) interim evaluation report by making the following amendments:

- repealing the lock out
- repealing the 3am Safe Night Precincts (SNPs) model
- winding back trading hours for licensees removed from an SNP due to a boundary change
- tightening the temporary late-night extended hours permit regime, and
- extending banning order sentencing regime to prescribed drug offences.

¹ *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

Also, the Bill proposes to clarify that licensees of “regulated premises”, with approved regular extended trading hours beyond midnight, must continue to scan patron IDs, if serving liquor beyond their usual hours under a temporary late-night extended hours permit.

In achieving its objectives, the Bill amends the following legislation:

- *Liquor Act 1992* (Liquor Act) and the Liquor Regulation 2002 (Liquor Regulation), and
- *Penalties and Sentences Act 1992*.

For more information on the objectives of the Bill, please see the Introductory Speech and the explanatory notes.

1.3.2 Background

The TAFV Act included amendments, which from 1 July 2016, reduced available liquor service hours to 2am statewide and 3am in Queensland’s 15 safe night precincts. A comprehensive discussion of the background to the main issues in the Bill can be found in the committee’s report on the TAFV Bill, tabled in February 2016 (see [Report No. 20](#)).

Section 338A of the TAFV Act provides for an independent review of the changes. The Queensland Government commissioned the Institute for Social Science Research to conduct this review. An interim evaluation report, which examined the impact of the changes introduced by the TAFV Act between 1 July 2016 and 31 December 2016, was delivered in January 2017 (the Interim Report).

During her Introductory Speech, the Attorney-General explained as follows:

The report suggested that the systematic and widespread use of temporary late night extended hours permits has the potential to compromise the impact of the tackling alcohol fuelled violence policy. As an illustration, researchers observed that since 1 July 2016 there has not been a single weekend night where all venues in the Fortitude Valley precinct have ceased service of alcohol at 3am. The report also concluded that the current research evidence suggests that the introduction of a lock out is not likely to significantly change current trends in relation to assault and injury. Additionally, the report endorsed the use of ID scanning and banning orders as harm minimisation measures.²

The Bill has been prepared on the basis of the findings of the Interim Report.

1.3.3 Consultation on the Bill

Although the explanatory notes do not indicate that there was any consultation on the Bill before the committee, they advise that in drafting amendments to the Liquor Act and Liquor Regulation, the Attorney-General met with a range of stakeholders during 2015 and 2016, including representatives from:

- the liquor industry
- business interest groups
- non-government services providers
- health associations, and
- experts in the field of alcohol-related violence.

The explanatory notes advise that the Attorney-General convened three stakeholder round table discussions to canvass a number of issues, including provisions for ID scanners and lock outs. Discussions were held in Brisbane on 6 August 2015 and Cairns on 10 September 2015.³

² Introductory Speech, 14 February 2017, p 55.

³ Explanatory notes, p 9.

The explanatory notes also provide that consultation has been undertaken with respect to the changes to the temporary late-night extended hours permit framework. In this regard, the explanatory notes state that:

Based on the finding of the Interim Report that such extended hours permits are impacting on the fidelity of 3am “last drinks”, it is considered necessary to amend the temporary late-night extended hours permit regime as soon as possible.⁴

In relation to the amendments to the *Penalties and Sentences Act 1992*, the Attorney-General convened a round table discussion on 6 April 2016, which was attended by government, legal and community stakeholders, including representatives from:

- Aboriginal and Torres Strait Islander Legal Service
- Queensland Police Service
- University of Queensland
- Queensland Network of Alcohol and Other Drug Agencies
- Queensland Hotels Association, and
- Various safe night precincts from throughout Queensland.

1.3.4 Outcome of committee considerations

Standing Order 132(1)(a) requires that the committee after examining the Bill determine whether to recommend that the Bill be passed.

Recommendation 1

The committee recommends that the Liquor and Other Legislation Amendment Bill 2017 be passed.

⁴ Explanatory notes, p 9.

2 Examination of the Bill

The committee's examination of the Bill is discussed in this section. The discussion below provides an overview only of the committee's considerations and analysis of the main issues raised and considered.

2.1 Repealing the lock out provisions

2.1.1 Proposals in the Bill

The Bill proposes to repeal the lock out provisions set out in Part 5, Division 5 of the Liquor Act retrospectively from 1 February 2017. The retrospective application of the repeal would prevent affected licensees from having to comply with the lock out between 1 February 2017 and the commencement of amendments repealing the lock out.⁵ Further, the explanatory notes provide:

It is acknowledged that notwithstanding the retrospective provisions, the lock out provisions were legally in force from 1 February 2017. However, the Government made an announcement of the proposed amendments to repeal the lock out provisions and that the lock out provisions will not be enforced during the period prior to the amendments being enacted.

It is intended that the Commissioner for Liquor and Gaming (Commissioner) will continue to have the power to impose a lock out in respect of an individual premise, via a licence or permit condition, where considered necessary.⁶

2.1.2 Stakeholder views

Many submitters supported this amendment.⁷ For example, Safe Night Townsville CBD Precinct Inc expressed:

Lock outs have come and gone in various states with never a clear evidence based conclusion if lock outs work for the reduction offences or assaults. Time and time again the multipronged approach to include lock outs with an earlier cessation of alcohol service simply do not work and should be repealed in consideration of the Bill and to never be considered again ...⁸

Although supportive of the change, concern was raised by the Broadbeach Safe Night Precinct Association (Broadbeach SNP) about the Commissioner retaining the power to impose a lock out in respect of an individual premise, via a license or permit condition, where considered necessary:

Broadbeach SNP supports the repeal of the lock out, however respectfully objects to the Commissioner for Liquor and Gaming to continue to have power to impose a lock out. Broadbeach SNP has always rejected the concept of a lock out as it leaves potentially intoxicated patrons on the street. Whilst SNP's feature various street security & safety initiatives, the street cannot be controlled in the same manner as a licensed premises. It is believed that patrons are better managed within venues, and locking patrons out on the street will cause more issues.⁹

However, a number of submitters oppose the change. For example, the Queensland Coalition for Action on Alcohol (QCAA) expressed disappointment with the proposed amendment given the perceived public support for them:

QCAA is disappointed that the Queensland Government has backed down on its commitment to implement all of the measures in its Tackling Alcohol-Fuelled Violence Amendment Act 2016. Queenslanders overwhelmingly support these measures with 72 per cent of

⁵ Explanatory notes, p 2.

⁶ Explanatory notes, p 2.

⁷ See for example, Submissions 2, 5, 9, 10, 13, 14, 16, 17 and 21.

⁸ Submission 5, p 1.

⁹ Submission 14, p 1.

Queenslanders supporting the introduction of earlier last drinks and 64 per cent believing that the Queensland Government should honour its commitment to introduce a 1am lock out in safe night precincts.¹⁰

In relation to the repeal of the lock out provisions, QCAA provided the following reasons for not supporting the repeal of the 1am lock out provisions:

While the evidence for the effectiveness of restricted entry policies like lock outs as a measure to reduce alcohol-related violence is not conclusive, the lock out was included in the Tackling Alcohol-fuelled violence legislation because lock outs were part of the very successful suite of measures introduced in Newcastle, Kings Cross and Sydney CBD Entertainment Precincts. These locations saw significant and sustained reductions in the levels of harm when special trading conditions for licensed venues were introduced.

There are other reasons we have reservations about the cancelation of the lock out provisions. First, the preliminary report makes clear that many of the provisions of the legislation have been circumvented by the industry. Second, the preliminary data are not sufficient to justify action, other than making efforts to have the legislation actually implemented.

It was never intended that lock outs would be introduced as a stand-alone measure to reduce harm. Lock outs have been introduced as part of a suite of measures that had been proven effective. Together, these measures were designed to support the key measure of reducing the availability of alcohol in the community.¹¹

The Foundation for Alcohol Research & Education (FARE) echoed QCAA's comments in its submission:

FARE reiterates QCAA's disappointment with the withdrawal of the lock out from the package of measures that were included in the Tackling Alcohol-fuelled violence legislation. The alcohol industry has been very vocal in its opposition to these measures and stirred up public debate on the issue. However, polling released in January of this year clearly shows that opponents to the measures are the vocal minority, with by far the majority of Queenslanders supporting the package of measures introduced by the Queensland Government in 2016.¹²

At the public hearing, FARE also noted the correlation between availability of alcohol and levels of violence, and recommended that alcohol and other drugs testing be applied to all offences committed in and around licensed venues.

With regard to lock outs, Mr Trent Meade, President, Fortitude Valley Safe Night Precinct, stated there is no evidence to suggest that lock outs reduce harm, and that he supports the repeal proposed by the Bill.¹³ Mr Meade told the committee that lock outs have caused job losses and impacted bar turnover.

Representatives from the Queensland Hotels Association expressed support for the repeal of 1am lock outs at the public hearing.¹⁴

Mr Nick Braban, Secretary of Our Nightlife advised that lock outs have resulted in reduced investment in areas such as bookings of musical acts, hiring of staff, renovations and marketing. He also acknowledged the disputes between SNPs that resulted from the choice of lock out provisions.

At the public hearing, Ms Melynda Robinson, Administrator of the Safe Night Broadbeach CBD Precinct Inc, noted that her organisation does not support lock outs.

During the public hearing, the committee questioned witnesses on the impact of lock out policies, or one-way-door policies, on people such as women, in the event they are intoxicated and become separated from their group of friends. Professor Jake Najman, Chair of the Queensland Coalition for Action on

¹⁰ Submission 7, pp 1-2.

¹¹ Submission 7, p 2.

¹² Submission 18, p1.

¹³ Public hearing transcript, Brisbane, 22 February 2017, p 2.

¹⁴ Ibid, p 17.

Alcohol, told the committee:

*I am not aware of any research that would say that that is true or false. We deal here a lot with anecdotes and people's reports of experiences. The police will probably have something to say about this. I am not aware of any specific research that comments one way or the other.*¹⁵

Ms Meredythe Crane from FARE noted that her organisation is "... not aware of anything that suggests that that is the case so we cannot really comment ..."¹⁶

Mr Tony Brown, Chair of the Newcastle Community Drug Action Team advised:

*In relation to women, there is no evidence that it has negatively impacted upon women at all. I invite the industry to produce any evidence on those grounds or again back up the evidence about Newcastle and Kings Cross. This was examined in great detail by an eminent Australian jurist, Ian Callinan QC, when he recently reviewed the lockout laws in Sydney and also in Newcastle, and he gave them a tick of approval.*¹⁷

Mr John Lynch, President of Safe Night Cairns CBD Precinct Inc acknowledged the impact of lock outs and the 3am cessation on people who are not aware of the rules and accidentally leave a premises:

*... since the introduction of the 3am cessation and no lockout, we have had no incidents where we have had distressed people out on the street. Being a tourist town, it is almost abhorrent to stand there on a door on the coalface and flat-out refuse someone entry who has just accidentally walked outside and is not aware of the rules. If it is two minutes past one and their friends are inside and have their keys, their wallet and everything, we have to stand there blank faced and almost act rude to them, even though they are not intoxicated. We have to refuse them entry and be completely unhelpful at a busy venue where you have no chance of trying to find someone under the description. It is a really poor look for Queensland and a really poor look for Australia, especially from the tourist point of view, that you cannot, unfortunately, help them in that situation.*¹⁸

2.2 Repealing the 3am Safe Night Precincts model

2.2.1 Proposals in the Bill

The Bill proposes to repeal the 3am Safe Night Precincts model. The Attorney-General explained the rationale for these changes in her Introductory Speech:

*Without a lock out in place there remains no practical reason to distinguish between safe night precincts and 3am safe night precincts in the manner originally contemplated by the policy. Accordingly, the bill will also retrospectively repeal the 3am safe night precinct model from 1 February 2017. As a result, 3am liquor service hours with no lock out will be available to approved licensees located in all 15 safe night precincts in Queensland. This means the inner west Brisbane safe night precinct, which was not prescribed as a 3am safe night precinct as of 1 February 2017, will retain its 3am trading status as will the other 14 safe night precincts.*¹⁹

¹⁵ Transcript, public hearing, Brisbane, 22 February 2017, p7.

¹⁶ Ibid.

¹⁷ Ibid, p3.

¹⁸ Transcript, public hearing, Brisbane, 22 February 2017, p 14.

¹⁹ Introductory Speech, p 55.

The Attorney-General further explained:

*This approach aligns with the Government's aim to promote a vibrant night-time economy throughout Queensland, while recognising that SNPs are best equipped to deal with an additional hour of liquor service given the enhanced safety measures in place in these areas.*²⁰

2.2.2 Stakeholder views

A number of stakeholders supported the proposal to repeal the 3am Safe Night Precinct model.²¹ For example, the Queensland Tourism Industry Council submitted:

*As the purpose of the 3am Safe Nights Precincts model was to distinguish between areas with/without a lock out, QTIC supports the 'Repeal of the 3am Safe Night Precincts model', consequently prescribing 3am liquor service hours with no lock out to approved licensees located in all 15 Safe Night Precincts in Queensland.*²²

However a number of submitters who supported the repeal of the lock out provisions were non-committal or did not support the repeal of the 3am SNP Model. For example, the Brisbane CBD Safe Night Precinct Board Inc, while indicating support for repealing the lock out, stated that it made no submission in relation to the proposal to repeal the 3am Safe Night Precinct model.²³

While the Queensland Hotels Association supported the repeal of the lock out provisions, it did not support the repeal of the 3am SNP model but rather submitted that it should be retained.²⁴ Similarly, the Broadbeach SNP did not support the repeal of the SNP model.²⁵

2.3 Winding back trading hours for licensees removed from an SNP due to a boundary change

2.3.1 Proposals in the Bill

The Bill proposes to make a technical amendment to ensure that licensed premises that are no longer located within an SNP, as a result of a future boundary change, will have their liquor service hours automatically wound back to 2am.²⁶ The Attorney-General explained in her Introductory Speech that the Commissioner for Liquor and Gaming will be required to give licensees notice prior to the change taking effect.²⁷

2.3.2 Stakeholder views

A number of submitters supported this proposal.²⁸ In indicating its support for this amendment, QCAA stated:

*If Safe Night Precinct boundaries change and a venue is no longer located within the boundary of the precinct, it should be subject to the same trading hour restrictions as other venues located outside Safe Night Precincts.*²⁹

Likewise, the Brisbane CBD Safe Night Board Inc noted that this proposal would “*seem like a logical outcome of such a change*”.³⁰

However, the Chamber of Commerce and Industry Queensland (CCIQ) raised the following concerns about

²⁰ Introductory Speech, p 55.

²¹ See, for example, Submission 10 and 17.

²² Submission 17, p 1.

²³ Submission 21, p 1.

²⁴ Submission 9, p 2.

²⁵ Submission 14, p 1.

²⁶ Explanatory notes, p 3.

²⁷ Introductory Speech, p 56.

²⁸ See for example, Submissions 5 and 7

²⁹ Submission 7, p 3.

³⁰ Submission 21, p 1.

this proposal:

However, CCIQ would like to raise concern of the technical amendment within the Bill that will wind back the trading hours for licensees who may find themselves outside of a Safe Night Precinct (SNP) as a result of future boundary changes. These venues will have their liquor service hours automatically wound back to 2am.

CCIQ strongly recommends that any changes to the SNP boundaries must not take place until extensive consultation with the affected businesses (both those who remain inside the SNP and those to be excluded) and for adequate justification to be provided to the public as to why the changes are proposed.³¹

Similarly, the Broadbeach SNP did not support the proposal:³²

Broadbeach SNP does not support the repeal of the SNP model. There is not enough information regarding the proposed changes to boundaries of the SNP. It is unjust to change boundaries of a precincts without consultation and forcibly remove extended trading hours from premises that are currently licensed with regular extended trading hours.³³

2.4 Tightening the temporary late-night extended hours permit regime

2.4.1 Proposals under the Bill

Currently, the Liquor Act provides that a licensee may apply for an extended hours permit to temporarily extend liquor trading hours on a particular day from between midnight and 5am.³⁴ The Commissioner may issue a maximum of 12 temporary late-night extended hours permits, for a particular licensed premises, within a 1 year period.³⁵

The Bill proposes to make changes to the temporary late-night extended hours permit regime. There are a number of aspects and detailed conditions which make up these changes but, in essence, the proposals:

- restrict the frequency in respect of which temporary late-night extended hours permits can be issued from 12 permits to 6 permits per calendar year
- restrict the issue of permits to no more than one permit per month
- provide that permits can only be issued for special events – such as weddings or private functions, or special public events of state or national significance – such as a televised sporting event or music festival, and
- provide that permits cannot be issued for consecutive days or multiple times in a month unless the permit relates to a single special occasion that occurs over multiple days.

2.4.2 Stakeholder views

The QCAA supported the overall cessation of the approval of late-night extended hours permits after ‘last drinks’:

QCAA has long opposed the provision of any exemptions to trading hour restrictions through one-off extended trading permits, since these undermine the legislation’s intention that there be a cessation of the service of alcohol at 2am, and 3am in Safe Night Precincts. Earlier last drinks have been repeatedly shown to be the most effective measure to stop alcohol harm in these circumstances. Therefore, QCAA recommends that no permits to extend drinking should be available to licensed premises.

³¹ Submission 2, p 1.

³² Submission 14, p 1.

³³ Submission 14, p 1.

³⁴ Section 103I(1) of the Liquor Act.

³⁵ Section 103J(1) of the Liquor Act.

If these are to be permitted, the number should be kept to a minimum. QCAA is encouraged to see that these permits will only be used where a genuine need has been identified and that it is not intended that venues will be granted all six permits in any one calendar year unless there is a genuine need. While it is proposed to reduce the maximum number permits, this number could be reduced further in light of the large number of licensed venues in Queensland and evidence outlets have colluded to circumvent the legislation resulting in a licensed venue always operating late on any weekend.

QCAA supports the amendment to pro-rata the number of permits available to new licences in the year the licence is approved. However, the number of permits available should be determined by the month in which the venue opens rather than the month in which the licence is granted to account for situations where there is a delay between the granting of a licence and opening of the venue.

QCAA supports moves to tighten eligibility requirements for these permits and provide rigour to the assessment of applications. However again, these requirements should be tightened further to reduce the potential for abuse.³⁶

In relation to the definition of 'special occasion' under the Bill, the QCAA further submitted:

QCAA is concerned about the inclusion of birthdays and private occasions as special occasions. The ubiquitous nature of birthdays and the lack of detail over what constitutes a private occasion will substantially weaken efforts to restrict access to these permits and they may in fact provide a de facto route for venues to seek a permit for an event that essentially reflects business as usual.³⁷

In its joint submission, Our Nightlife Queensland and the Fortitude Valley Safe Night Precinct Association, noted they were generally supportive of a review of how extended hours permits are approved. However, the organisations considered that a reduction in the number of permits from 12 to six each year was sufficient and that any further red-tape restrictions proposed by the Bill in this regard "*will only stifle investment, and add further confusion to what is an already technical piece of legislation*".³⁸

Additionally, a number of submitters were against the proposed tightening of the regime. For example, Safe Night Townsville CBD Precinct Inc commented:

The impacts of reducing the number or completely not at all of the current 'one off extensions' will negatively impact the regional areas, and will stop licensed and small businesses who genuinely use the extended hours permits for events that come to the region.³⁹

Safe Night Precinct Ipswich also indicated significant concerns with the proposal to tighten up the late night extended hours permit regime:

The area of greatest concern with the Liquor and Other Legislation Amendment Bill 2017 is the changing of the late-night extended hours permit regime. At this point in time of the regeneration of the Ipswich CBD, this change is the most detrimental. The growth of the CBD into a vibrant entertainment precinct will require venues to use the 12 temporary late-night extended hours permit regime first, to develop the market. It is envisaged that once the market can support the 12 temporary late night extended hours, licensees would then adopt an extended trading license. This approach allows for an orderly growth of the precinct. The handicapping of the SNP licensees for future growth by reducing these 12 temporary late-nights extended hours to 6, while increasing the acceptance criteria for this permits will stymie the growth of the Ipswich SNP.⁴⁰

³⁶ Submission 7, p 3.

³⁷ Submission 7, p 4.

³⁸ Submission 19, pp 4-5.

³⁹ Submission 5, p 3.

⁴⁰ Submission 11, p 1.

Just Let It Go raised similar concerns in its submission and queried the Interim Report's conclusions in this regard:

This suggested reduction of a further 50% of permits is hinged on an Interim reports claim "that there has been a lack of fidelity to "last drinks" at 3a.m. in SNPs across Queensland due to systematic and widespread use of temporary late-night extended hours permits. In this regard, since 1 July 2016, there has not been a single weekend night where all venues in Fortitude Valley ceased liquor service at 3a.m."

As a board member of the Fortitude Valley SNP at no time have I witnessed any discussions or arrangements between licensee's to collectively subvert the extended late night trading permits, and allegations of "gaming" and "lack of fidelity" raised in the report are inaccurate. In fact it has been my experience that venues over this time have 'kept quiet' their intentions to apply for extended trading to gain a competitive edge for their business.⁴¹

Instead of reducing the number of permits from 12 to six each calendar year, the Broadbeach SNP suggested that the number of permits should be increased:

Broadbeach SNP does not support the tightening of temporary late-night extended hours permit regime. Broadbeach SNP respectfully suggests that rather than reducing the temporary permits allowed, the number of temporary permits allowed should be increased by 6 per calendar year for premises situated within an SNP, therefore allowing a total of 18 temporary extended trading hours in a year. As previously mentioned, SNP's are well equipped to handle increased trade and business operators within the precinct implore the support of the government.

It should also be noted that taking into account expected holidays (New Years and Christmas) licensees in reality will be left with 2 – 4 extended trading permits that align only with a national/state public event or private function. Entertainment venues such as Nightclubs and Hotels often have artists of national or international status performing at their venues. However, under the new legislation it does not seem that this would warrant a late trading permit (to 4 or 5am). By engaging international artists, businesses are increasing the commercial profile of the area for residents and increasing the attractiveness of the area to tourists on an international stage.⁴²

A number of stakeholders commented on extended hours permits at the public hearing. For example, representatives from the Queensland Hotels Association reiterated that the reduction of 12 extended trading hours permits to six is not supported. On the other hand, Professor Jake Najman, Chair of the Queensland Coalition for Action on Alcohol indicated support for fewer exemptions, and that a further reduction to three would be preferable. That is, for Christmas, New Years Eve and special occasions.

Mr Damian Steele, Industry Engagement Manager, QHA drew the committee's attention to the state-wide application of the Bill's proposed amendments, that under existing law would only apply to specific SNPs:

This bill is proposing to introduce those one-off precinct opportunities to the whole of Queensland—not just the safe night precincts—which was never in the conversation. As of yesterday the information on the Office of Liquor and Gaming Regulation website still refers to this as a Safe Night Precinct reduction only.⁴³

In response to a committee question about who would be impacted by the changes, Mr Steele advised:

It is any venue that wants to apply on a one-off occasion to extend their existing approved trading hours. I could be a midnight approved trader and I want to apply to go to 1am or 2am.⁴⁴

⁴¹ Submission 13, pp 1-2.

⁴² Submission 14, p 2.

⁴³ Public hearing transcript, Brisbane, 22 February 2017, p 19.

⁴⁴ Public hearing transcript, Brisbane, 22 February 2017, p 19.

2.5 Extending banning order sentencing regime to prescribed drug offences

2.5.1 Proposals in the Bill

The Bill also proposes to amend the Penalties and Sentences Act to allow a sentencing court to impose a banning order on offenders convicted of a prescribed drug offence, where the offence was committed in licensed premises or in a public place near licensed premises.⁴⁵

Under the current law, the existing banning order regime applies to persons convicted of offences that involve the use, threatened use or attempted use of unlawful violence to a person or property. Among other things, the court must also be satisfied that the offence was committed in licensed premises or in a public place in the vicinity of licensed premises, and that if the order is not made, the offender poses an unacceptable risk to the good order of the licensed premises and safety and welfare of persons attending the premises or in that area.⁴⁶

The amendment proposes to extend the existing banning order framework under the Penalties and Sentences Act by applying to offenders convicted of the offences of supplying or trafficking dangerous drugs under the *Drugs Misuse Act 1996*.⁴⁷

The explanatory notes provide the following rationale for these amendments:

*These amendments recognise the harm posed by this cohort of drug offenders in terms of the potential drug-related violence that may occur consequential to the sale or supply of drugs to persons in and around licensed premises.*⁴⁸

The Attorney-General, in her Introductory Speech, explained that:

*This amendment delivers on our commitment to expand upon the existing banning order framework to include drug offenders.*⁴⁹

2.5.2 Stakeholder views

The proposal to extend the banning order sentencing regime to prescribed drug offences was supported by some submitters.⁵⁰ For example, in relation to the amendments relating to banning orders, Just Let It Go submitted:

*The Just Let It Go Foundation supports an increase in the issuing of banning orders by police and magistrates in Queensland. As a crime prevention measure, banning orders are a powerful deterrent form of social exclusion.*⁵¹

Similarly, Broadbeach SNP commented:

*Broadbeach SNP supports the legislation regarding extension of banning order sentencing. This legislation places emphasis on undesirable individuals and is believed to proactively aid in the amenity and safety of areas surrounding licensed venues.*⁵²

In supporting the proposals, QCAA also recommended that alcohol and other drugs testing should be introduced for all arrests near licensed venues, and for all arrests in Safe Night Precincts.⁵³

RSA Liquor Professionals indicated that it has “no concerns subject to a better designed ID scanning system”.⁵⁴

⁴⁵ Explanatory notes, p 5.

⁴⁶ Explanatory notes, p 5.

⁴⁷ Introductory Speech, p 56.

⁴⁸ Explanatory notes, p 5.

⁴⁹ Introductory Speech, p 56.

⁵⁰ See for example, Submissions 5, 7, 10, 13, 14 and 16.

⁵¹ Submission 13, pp 2-3.

⁵² Submission 14, p 2.

⁵³ Submission 7, p 4.

⁵⁴ Submission 10, p 4.

2.6 ID Scanners

2.6.1 Proposals in the Bill

The proposals in the Bill concerning ID scanners are summarised in the explanatory notes as follows:

While not directly related to the Interim Report's findings, in order to support the effective operation of provisions relating to ID scanning, the Bill will make amendments to clarify that licensees of "regulated premises", with approved regular extended trading hours beyond midnight, must continue to scan patron IDs if serving liquor beyond their usual hours under a temporary late-night extended hours permit.

It should be noted that licensees who are not approved for regular extended trading hours post-midnight, are not required to scan patron IDs when serving liquor post-midnight under a temporary late-night extended hours permit.⁵⁵

2.6.2 Stakeholder views

The Just Let It Go Foundation supported the implementation of mandatory ID scanners for late night licensed venues:

The foundation proposes to the committee that licensee's be required to operate scanners during licensed hours of trade where there is an identified increase in the risk of harm to patrons. Without the use of ID scanners during these periods of trade, persons with current banning orders would remain undetected by venues. ...

The foundation recommends that the committee consider the inclusion of all major late night licensed venues with the capacity to trade after midnight for the mandatory use of ID scanners. This would include without exception Casinos and International canteen licensed venues.⁵⁶

Just Let It Go considered that the following considerations needs to be taken into account to define the type of venue required to introduce ID scanners:

- size of a venue
- period of trade of a venue
- history of incidents of a venue
- level of risk of a venue, and
- location of the venue.⁵⁷

The QCAA also supported this amendment:

The introduction of mandatory ID scanners in venues that trade after midnight and are located in Safe Night Precincts has been on the government's agenda since the previous government introduced its Safe Night Out Strategy in 2014. This amendment provides certainty for venues over their implementation and the timeframe in which networked ID scanners need to be in place.

There is little evidence to show the effectiveness of ID scanners, particularly as a measure in their own right, but they are supported by a variety of stakeholders and provide the ability to collect data about patron visitation to licensed venues.⁵⁸

The Safe Night Townsville CBD Precinct Inc submitted that:

⁵⁵ Explanatory notes, p 5.

⁵⁶ Submission 13, p 3.

⁵⁷ Submission 13, p 3.

⁵⁸ Submission 7, pp 4-5.

- ID scanning should only be introduced after 10pm, allowing those licenses venues who provide food, not to impede on every day families who are intending to dine, and
- ID scanning should be in venues which trade after midnight within SNPs and those venues outside SNPs providing gambling as entertainment.⁵⁹

However, in its submission, the ALH Group, commented that the legislation should exclude gaming rooms from the Safe Night Precinct ID scanning provisions.⁶⁰

A number of witnesses expressed views on ID scanners at the public hearing. For example, representatives from the Queensland Hotels Association expressed support for the major venues trading after midnight within major SNPs to be required to use ID scanners. However, they pointed out that the conditions for the use of these scanners should be workable, practical and commercially affordable.

In its submission, RSA Liquor Professionals stated that ID scanning represents:

*... a multi-million dollar double check to ensure that somewhere between 3 and 21 patrons don't sneak into pubs in the City, Valley and Inner West in any 10 day initial banning notice period, and in default we have to scan 100% of the estimated 20,000+ patrons who collectively enter venues in these areas after 10pm. The actual best policy is delete s173EE-173ET entirely and create a voluntary framework, protecting privacy of IDs and protecting licensees who share such sensitive data.*⁶¹

Amongst other things, RSA Liquor Professionals considered that the Act should be amended so that:

- *Mandatory ID scanning to only apply to premises with a condition endorsed by the Commissioner (as opposed to classes of licenses which inflexibly capture all or most premises trading after 12midnight entirely regardless of compliance history)*
- *Before endorsing a condition on a License, the Commissioner MUST consult with the local Liquor Accord to identify which premises in a locality justify implementation of ID scanning*⁶²

It recommended that “[a]ny consideration of this Bill should take a holistic approach and reconsider the mandatory ID scanning system in the current trading environment.”⁶³

⁵⁹ Submission 5, p 4.

⁶⁰ Submission 1, p 1.

⁶¹ Submission 10, p 3.

⁶² Submission 10, p2.

⁶³ Submission 10, p 1.

3 Compliance with the *Legislative Standards Act 1992*

3.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that ‘fundamental legislative principles’ (FLPs) are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

3.1.1 Rights and liberties of individuals - Section 4(2)(a) *Legislative Standards Act 1992*

Clause 22 has the potential to raise the issue of whether the Bill has sufficient regard to the rights and liberties of individuals.

Summary of provisions

Clause 22 inserts new part 12, division 19 (Transitional and declaratory provisions for *Liquor and Other Legislation Amendment Act 2017*) to provide for certain transitional provisions.

New section 348 (Cancellation of current 2017 late night permits) applies to late night permits granted to a licensee for future dates. Section 348(2) provides that on commencement, the permit is cancelled. Pursuant to section 348(3) the commissioner must refund to the licensee the fee paid for the application and provide written notice of the cancellation to the licensee advising that a further application may be made.

Potential FLP issues

Section 348 cancels an extended hours permit already granted to a licensee. The licensee would have a reasonable expectation that having been granted the permit and paid the application fee, that this would be honoured. It is also possible that other contingencies (eg. events and functions) may have been organised in reliance on the granted permit, with the potential to cause significant inconvenience or monetary loss to event organisers in the event that a new permit is not granted.

The cancellation of the existing permits potentially breaches section 4(2)(a) of the *Legislative Standards Act 1992* (LSA Act) which provides that legislation should have sufficient regard to rights and liberties of individuals.

The explanatory notes provide the following justification for the section:

This potential breach is considered justifiable on the grounds of public interest, due to the harm-minimisation benefits of limiting late-night liquor trading.

It is also noted that, as soon as practicable following commencement, licensees will receive a refund of the application fee. A licensee may then reapply for a new temporary late-night extended hours permit under the new criteria.⁶⁴

Committee comment

The committee notes the justification provided in the explanatory notes, including the refund of the application fee paid and the opportunity for a licensee to reapply for a licence. On balance, the committee considers that the clause has sufficient regard to fundamental legislative principles.

⁶⁴ Explanatory notes, Liquor and Other Legislation Amendment Bill 2017, p 7.

3.1.2 Does the Bill impose obligations retrospectively? – Section 4(3)(g) *Legislative Standards Act 1992*

Clauses 8, 11, 15, 22 and 28 have the potential to raise the issue of whether the Bill has sufficient regard to the rights and liberties of individuals.

Summary of provisions

Pursuant to clause 3, Division 2 provides that amendments to the *Liquor Act 1992* are taken to have commenced on 1 February 2017.

Clause 8

Clause 8 omits Part 5, Division 5 (Lock out provisions) from the *Liquor Act 1992*, including sections 142AA and 142AB. Section 142AA sets out when the licensee of a premises is authorised to supply liquor during the period between 1am and 3am (the trading period) under an extended trading hours approval. Section 142AB provides that it is a condition of a holder's licence that a patron must not be allowed to enter premises during the trading period.

Clause 11

Clause 11 omits Part 6AB, Division 5 (3am safe night precincts) from the *Liquor Act 1992*, including sections 173O, 173P and 173Q. Section 173O provides that a licensee in a 3am safe night precinct (SNP) may apply for extended trading hours to include trading between 12am and 3am. Sections 173P and 173Q allow for Safe Night Precincts (SNP) to be prescribed or revoked by regulation.

Clause 15

Clause 15 omits sections 103I (Hours to which application may relate) and section 103J (Restriction on number of extended hours permits for particular premises).

New section 103I prescribes the hours to which an application may relate. Section 103IA sets out the restrictions on the granting of a permit for trading between 12am and 5am.

Section 103IA(2) allows the commissioner the power to provide an extended hours permit if satisfied it is to sell liquor on a special occasion that persons independent of the licensee, and of the owner or occupier of the licensed premises, wish to celebrate on the licensed premises. Pursuant to section 103IA(3) the commissioner may only grant an extended hours permit for certain reasons.

Currently, section 103J provides that a maximum of 12 extended hours permits authorising the sale of liquor can be made in a one year period. New section 103J reduces the number of permits to six in a calendar year.

Clause 22

Clause 22 inserts new section 347 and provides that the 'relevant period' is from 1 February 2017 to the commencement of the section.

Section 347(2)(a) provides that no licence or permit is taken to have been subject to a lock out condition by section 142AB, which is being repealed. Pursuant to section 347(2)(b) the granting of an extended trading hours approval, and anything done in relation to an extended trading hours approval, is valid as it would have been if a reference in section 86(1)(b) or 155AD to a 3am SNP were a reference to a SNP. Section 347(3) provides that the rights and liabilities of all persons during the relevant period are the same as if the repealed 1am lock out provisions contained in section 142AB had never been in force.

Pursuant to section 347(4)(a), subsections (2) and (3) do not apply to legal proceedings decided before commencement. However, section 347(4)(b) provides that the section does apply to all purposes including a legal proceeding started, but not decided, before commencement and a legal proceeding started after commencement.

Section 351 provides that section 336 (Applications for extended trading hours between 2am and 5am);

section 337 (Existing extended trading hours approvals for trading between 2am and 5am) and section 338 (Effect of certain court or tribunal decisions relating to extended trading hours), are taken to have been applied since 1 February 2017.

Clause 28

Clause 28 inserts a new Part 14, division 19 (Transitional provision for *Liquor and Other Legislation Amendment Act 2017*), into the *Penalties and Sentences Act 1992*.

New section 254 provides that a court may make a banning order under section 43J if the offender is convicted of an offence mentioned in section 43J(1)(a)(i) or (ii). This includes if the offender has been convicted of an offence that involves the use, threatened use or attempted use of unlawful violence to a person or property and if the court is satisfied that the offence was committed in licensed premises or in a public place in the vicinity of licensed premises. The new section allows a banning order to be imposed after commencement, even if the offence was committed, or the offender was charged with the offence, before the commencement.

Potential FLP issues

Clauses 8, 11, 15 and 22 all operate retrospectively from 1 February 2017, while clause 28 allows for a banning order even if the offence was committed prior to commencement.

Section 4(3)(g) of the *Legislative Standards Act 1992* (the LSA) provides that legislation should not adversely affect rights and liberties, or impose obligations retrospectively. Strong argument is required to justify an adverse effect on rights and liberties, or imposition of obligations, retrospectively.

The explanatory notes acknowledge that the aforementioned clauses operate retrospectively, and provide the following justifications for each clause:

Clause 8

It is considered that retrospective repeal is justified on the basis that the Government informed the public and stakeholders prior to 1 February 2017 that the lock out provisions would not be enforced and would be repealed. The Government has determined that existing 3a.m. liquor service without a lock out is to continue in all SNPs and the proposed retrospective operation of the amendments will provide for consistency of the current operational requirements. If the relevant amendments did not commence retrospectively, licensees would be subject to a lock out for a temporary period.⁶⁵

Clause 11

However, this is considered justified as all licensees who were afforded 3a.m. liquor service hours from 1 February 2017 by virtue of being in a prescribed 3a.m. SNP will retain these hours following the repeal of the model, essentially meaning that no rights are lost.

In conjunction with the retrospective repeal of the 3a.m. SNP model, the Bill will retrospectively sanction the continuation of 3a.m. liquor service in all SNPs from 1 February 2017. While the retrospective operation of this may breach FLPs, it is considered justified on the basis that it legitimises the intention of allowing 3a.m. liquor service hours in all SNPs State-wide from 1 February 2017.⁶⁶

Clause 15

This potential breach is considered justifiable on the grounds of public interest, due to the harm-minimisation benefits of limiting late-night liquor trading.⁶⁷

Clause 22

⁶⁵ Explanatory notes, p 6.

⁶⁶ Explanatory notes, p 6.

⁶⁷ Explanatory notes, p 7.

It is considered that this potential breach is justifiable on the grounds of public interest, due to the harm-minimisation benefits of limiting late-night liquor service. The provisions will also provide legislative clarity to the courts and tribunals as to the intended operation of the Government's policy going forward.⁶⁸

Clause 28

The sentencing court retains complete discretion as to whether or not to include a banning order as part of the sanction imposed. The amendment is focused on drug traffickers and drug suppliers; that is, objectively the more serious drug offenders, and who, by virtue of the nature of their offending, pose a threat to the safety and good order of licensed premises and the surrounding areas. Additionally, the existing banning order framework contains a number of safeguards, including that a banning order cannot prevent an offender from entering or remaining in their residence or place of employment or formal education. The existing framework also provides for an appropriate avenue to apply to a court to amend or revoke the banning order.⁶⁹

Committee comment

Clauses 8, 11, 15 and 22 seek to repeal the reduced liquor service hours put in place by the TAFV Act. These amended provisions to be incorporated into the *Liquor Act 1992* are operational from 1 February 2017.

The committee notes the justifications provided in the explanatory notes in relation to the retrospective provisions, which include providing certainty to licensees as well as the courts, and being in the public interest.

In relation to clause 28, the committee notes that it is ultimately at the court's discretion as to whether a banning order is imposed and safeguards under the current system still operate.

3.2 Explanatory notes

Part 4 of the LSA relates to explanatory notes. It requires that an explanatory note be circulated when a bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by Part 4 and a reasonable level of background information and commentary to facilitate understanding of the Bill's aims and origins.

⁶⁸ Explanatory notes, p 8.

⁶⁹ Explanatory notes, p 8.

Appendix A – List of submitters

| Sub # | Submitter |
|-------|--|
| 1 | Australian Leisure and Hospitality Group (ALH Group) |
| 2 | Chamber of Commerce and Industry Queensland (CCIQ) |
| 3 | North West Hospital and Health Service |
| 4 | Mr Tony Brown |
| 5 | Townsville Safe Night Precinct |
| 6 | Queensland Nurses' Union (QNU) |
| 7 | Qld Coalition for Action on Alcohol (QCAA) |
| 8 | Healthy Options Australia |
| 9 | Queensland Hotels Association (QHA) |
| 10 | RSA Liquor Professionals |
| 11 | Safe Night Precinct Ipswich |
| 12 | Australian Medical Association Queensland (AMA Queensland) |
| 13 | Just Let It Go Foundation |
| 14 | Broadbeach Safe Night Precinct Association (Broadbeach SNP) |
| 15 | The Australasian Professional Society on Alcohol and other Drugs (APSAD) |
| 16 | Safe Night Cairns CBD Precinct |
| 17 | Queensland Tourism Industry Council |
| 18 | Foundation for Alcohol Research and Education (FARE) |
| 19 | Our Nightlife Queensland and Safe Night Precinct Fortitude Valley |
| 20 | Safe Night Rockhampton CBD Precinct |
| 21 | Liquor & Gaming Specialists and Brisbane CBD Safe Night Precinct Board Inc |
| 22 | Bartlett's Tavern |
| 23 | CONFIDENTIAL |

| | |
|----|--------------|
| 24 | Mantle Group |
| 25 | Ken Pfitzner |

Appendix B – Witnesses at the public hearing

| Name | Organisation |
|-----------------------|--|
| Mr Tony Brown | Newcastle Community Drug Action Team |
| Mr Nick Braban | Our Nightlife |
| Mr Trent Meade | Fortitude Valley Safe Night Precinct |
| Professor Jake Najman | Queensland Coalition for Action on Alcohol |
| Ms Amy Ferguson | Foundation for Alcohol Research & Education |
| Ms Meredythe Crane | Foundation for Alcohol Research & Education |
| Mr Matthew Jones | Liquor & Gaming Specialists/Brisbane CBD Night Precinct Board Inc. |
| Mr John Lynch | Safe Night Cairns CBD Precinct Inc. |
| Ms Melynda Robinson | Safe Night Broadbeach CBD Precinct Inc. |
| Mr Bernie Hogan | Queensland Hotels Association |
| Mr Damian Steele | Queensland Hotels Association |

Statement of Reservation

The Non-Government Members of the Legal Affairs and Community Safety Committee make the following observations and comments regarding the Liquor and Other Legislation Amendment Bill 2017:

The Premier and her Labor Government could have saved everyone a lot of time, money, concern and stress if they had listened and implemented evidence based policy this time last year. This was referenced by Nick Braban of Our Nightlife Queensland to the Committee when he said in response to that question that:

“Yes, without a doubt. The safe night strategy was a world-leading strategy, in our opinion, developed in partnership with all stakeholders. If that had been allowed to continue, we would be in a better place than we are in today. There is no doubt about that.”

There was ample evidence then that the introduction of a 1am lockout was no way of reducing alcohol and drug related violence and there have been very mixed results in other jurisdictions as to its effectiveness.

Despite the media spin and rhetoric, there is no other way of saying that this is not only a major policy backflip, but it is also a broken election commitment by Annastacia Palaszczuk.

While not supporting the lockout policy, at least the LNP have been consistent in our position. We introduced the Safe Night Out policy in 2014 and we remain committed to that policy. Queenslanders could be forgiven for being confused, if they thought that Labor’s new policy looks very similar to the LNP policy.

Considerable sympathy is also felt for groups and individuals such as Professor Jake Najman and the Queensland Coalition for Action on Alcohol, because they have not only campaigned on this issue, but they stood next to Annastacia Palaszczuk when she announced Labor’s policy in January 2014.

To quote a media article covering that announcement:

“A 1am lockout and a 3am alcohol cut off form the basis of Labor’s policy to deal with alcohol-fuelled violence.” Brisbane Times, 21 January 2014

Whilst the LNP have a different point of view, groups like the Queensland Coalition for Action on Alcohol have been lead down the garden path and completed duded by this policy backflip by Labor. In fact, during the committee hearings, it was confirmed that these groups were never even consulted prior to the decision to backflip. These are the same people who helped Labor formulate their policy and stood next to Annastacia Palaszczuk when she announced it in January 2014.

In justifying these laws last year, the Government continued to use the so called ‘Newcastle solution’ as the envy of all public policy models. Yet as confirmed by Tony Brown from Newcastle to the Committee:

“Our second grave concern is the taking away of the lockout laws. That was a central part of Newcastle’s success.”

True to form, Labor say one thing before an election and do another thing after.

Non-Government members also fail to see how licensed premises can be blamed for

'gaming the system' of extended trading hours permits, a system that was established and managed by the Office of Liquor and Gaming under the current legislation, when that very same office of Liquor and Gaming provided its approval of every single extended hours permit issued under the current legislation.

Non-Government members do not support the changes to the one-off temporary extended trading hour's permits as they are retrospective and complicate the process far more than it needs to be.

Labor established the current rules and it was the sloppy administration from the Attorney-General that oversaw this supposed 'gaming of the system.'

Now these venues have to re-evaluate their business model and forecasting because of a retrospective policy.

The fact is, this legislation is full of retrospective policy decisions.

Retrospective legislation makes it very difficult for business to succeed and employ more Queenslanders. Furthermore, it is no way to reduce alcohol related violence.

The Deakin University interim report 'Impact of the last drinks and lockouts' made the following conclusions:

- It is very important to note that there has been virtually no fidelity to the last-drinks at 3am in SNPs across Queensland due to the systematic and widespread use of extended trading permits;
- Since 1st July 2016, there has not been a single weekend night where all venues in Fortitude Valley have ceased the service of alcohol at 3am;
- There has been no obvious reduction in alcohol-related assaults in the period 1 July 2016 to 31 December 2016, either in SNPs, or Queensland-wide;
- For the hours of 20:00 to 06:00 there has been a continuing downward trend in common and serious assaults in Queensland and for the hours of 03:00 and 06:00 a continuing downward trend in ambulance attendances in SNPs and a continuing downward trend in common assaults in the Fortitude Valley. This downward trend includes the period since the introduction of the Policy.
- There has been no significant change in injury presentations at Emergency Departments during high alcohol hours;
- Lack of notable change in trends since the introduction of the Policy also suggests the provision of extended trading permits (allowing the sale of alcohol until 5am) has compromised the impact of the Policy; and
- The current research evidence suggests that the introduction of lockouts (one-way doors) is not likely to significantly change current trends (except for pre-drinking).

It is impossible to justify the evidence that lockouts don't work, when the report was completed, in circumstances where no lockout was ever enforced.

It is also extremely ironic that Government members of the Committee were questioning the

position of witnesses, like Professor Najman, on positions the Government had previously venerated and which in 2016 were held up almost as being like the gospel truth. In particular, we refer to the exchange below, in which a Government MP questions Professor Najman, calling into question the evidence he provided, both to this inquiry and the 2015/16 inquiry into the Tackling Alcohol-fuelled Violence Legislation Amendment Bill 2015, that increasing the cost of alcohol, reducing the hours of availability and the number of licenced premises would lead to a reduction in consumption of alcohol.

Professor Najman: *"What we find in our research is that changing the structural parameters changes the behaviour. If you increase the cost of alcohol, you reduce the consumption. If you reduce the number of venues, you reduce the consumption. If you reduce the number of hours of opening, you reduce the consumption. Irrespective of what people think, feel, believe or want, it follows. It happens. We have reason to suspect that that is what will happen here."*

Ms BOYD: *"Couldn't it be that some of those findings that you refer to that reduce consumption in venues are coming through your data because you are not actually capturing consumption through other places like consumption in the home, for example?"*

Professor Najman: *"The answer is no—unambiguously no. The reason for that is that, firstly, we are relying on—I do not know; I could find for you, and I did find for the government—20 studies around the world in different cultural contexts and different circumstances, all with the same result. I could not find one study which was contrary to that result."*

This exchange lays bare the backflip of the Government, as a Government MP was calling into question the views of a witness that had previously been held up as one of the experts upon which the Government's lockout laws were designed, on an issue of policy that the Government had previously placed much reliance in arguing for the lockout laws.

We can only say that this demonstrates a Government that has absolutely no idea what it is doing, flapping hopelessly in the political wind and completely devoid of any underlying belief in anything – except retaining power.

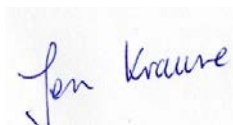
Finally, the Opposition has consistently maintained that the Government's policy direction in this area was flawed.

Professor Najman has now backed away from lockouts, and considers that other elements of the legislation simply have not worked.

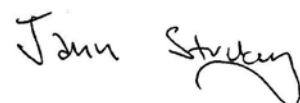
While it is pleasing that the Government is finally straightening out the mess it created, it is too late for the employees who have lost hours, too late for the venues that have lost live music acts, too late for the tradies who would have gained work on upgrading and refurbishing venues that have either shut down, or decided not to proceed with renovations, due to the uncertainty wrought on business by this hapless, directionless Government.



Michael Crandon MP
Deputy Chair
Member for Coomera



Jon Krause MP
Member for Beaudesert



Janet (Jann) Stuckey MP
Member for Currumbin

