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Joint Select Committee on Sydney's night-time economy
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Dear Ms Ward

Submission to the draft Liquor Amendment (24-hour economy) Bill

Background and introduction

The Royal Australasian College of Surgeons NSW committee (RACS) is grateful for the opportunity to provide a submission on the public draft Liquor Amendment (24-hour economy) Bill 2020.

RACCS represents the professional interests of 2037 RACS surgeons, 431 surgical trainees and a number of international medical graduates who provide a broad range of surgical and related service. We are committed to ensuring the highest standard of safe and comprehensive surgical and patient care for the communities we serve.

Each day, NSW surgeons witness what is primarily a preventable burden of NSW alcohol related harm. They work with other health care providers, ambulance officers and nursing staff in the fight to save and subsequently assist in the management of the lives of patients injured in alcohol related harm.

Orthopaedic surgeons repair shattered limbs, and general surgeons operate on internal organs smashed in car crashes – many of which are alcohol related. Faciomaxillary surgeons repair shattered faces from acts of alcohol fuelled (65%)¹ interpersonal violence. Neurosurgeons perform time critical surgery draining blood from within the skulls of inebriated patients following low energy falls or coward punched victims.

NSW surgeons also treat and manage the chronic medical aspects of primarily preventable alcohol related harms. This includes high levels of irreversible liver disease, including

¹ Scott D *et al.* 2020. The feasibility and utility of using coded ambulance records for a violence surveillance system: A novel pilot study. *Trends & issues in crime and criminal justice* no. 595. Canberra: Australian Institute of Criminology. <https://www.aic.gov.au/publications/tandi/tandi595>.



younger people requiring transplants, and a range of cancers likely caused by alcohol consumption exceeding national guidelines (16% of breast cancer in Australian women is directly attributable to the alcohol, which is a Class 1 cancer causing molecule, which they have consumed).

A key contributing factor to a significant proportion of the above primarily avoidable acute and chronic pathology, is the harmful availability, supply, promotion, service and consumption of alcohol.

The ongoing effective fair and equitable regulation of the supply and service of alcohol including effective industry compliance and enforcement, through legal instruments such as the NSW Liquor Act and this draft 2020 Bill, therefore also has profound inseparable and unavoidable public health and safety implications.

Effective alcohol related harm reduction requires Law/Health/Safety obligations being mutually acknowledged by the NSW Minister responsible for the regulation of alcohol and gambling, and by the NSW Minister of Health.

RACS notes that the proposed Bill contains proposed provisions which fail to meet this expectation, and neglects other meritorious amendments – potentially to the overall net detriment of the NSW public, especially the most powerless, disadvantaged and vulnerable members of our community.

Some of the weaknesses include:-

- Online ordering and rapid home delivery of alcohol
- Cumulative impact assessment framework – including the unreliability of some ‘live data’ harm indicators preferred by the industry and ILGA. This may distract for the urgent need to address the many existing BOCSAR declared domestic and non-domestic violent hotspots usually surrounding licensed premises, scattered across NSW far beyond Sydney’s CBD and Kings Cross drinking precincts
- Manifest weakening of industry compliance schemes likely to increase alcohol harms. This also includes overly generous novel incentive schemes
- Encouragement of minors to attend small bars with insufficient controls
- Failure to included evidence based regulatory interventions on the pricing of alcohol proven to reduce domestic violence and other alcohol related harms
- Lack of community inclusiveness in key processes contained with the Act
- Failure of openness and transparency in key determinative processes of the Act to the detriment of community interests

As the proposed Bill stands, our concern is that the effects of the legislation has potential to increase the number of patients and the severity of injury to those who will experience preventable alcohol related harms. It is likely to cost more lives.

We therefore welcome the opportunity to collaborate with the NSW Government to inject into the draft Bill, a better balance between the private commercial interests of the powerful alcohol lobby and the public interest. This can be achieved by prioritising the Act’s objects and operative evidence-based clauses that reduce and prevent alcohol related harm.

Better representation of NSW alcohol harms

The primary function of elected government is to ensure the safety and protection of all its citizens. The urgent prevention of the full breadth and depth of alcohol related harms in NSW, should be main driver of amendments to the NSW Liquor Act. Not the creation of a 24 hour economy in Sydney's CBD and Kings Cross.

A major concern of RACS is the Government's apparent preoccupation of creating a regulatory environment that is conducive to the alcohol industry's increased profitability and growth, whilst avoiding the negative public safety and health consequences of increasing the availability and supply of alcohol. This includes the proposed weakening of compliance and due diligence obligations for those business owners who will profit from a more deregulated environment.

This apparent bias is reflected in the Department's Summary of the proposed changes to the Liquor Act.

The L&GNSW summary of the Bill relies on a single crime indicator (non-domestic alcohol related assaults)² to justify the revocation of the 3 disciplinary schemes and a general relaxation of the industry regulatory environment.

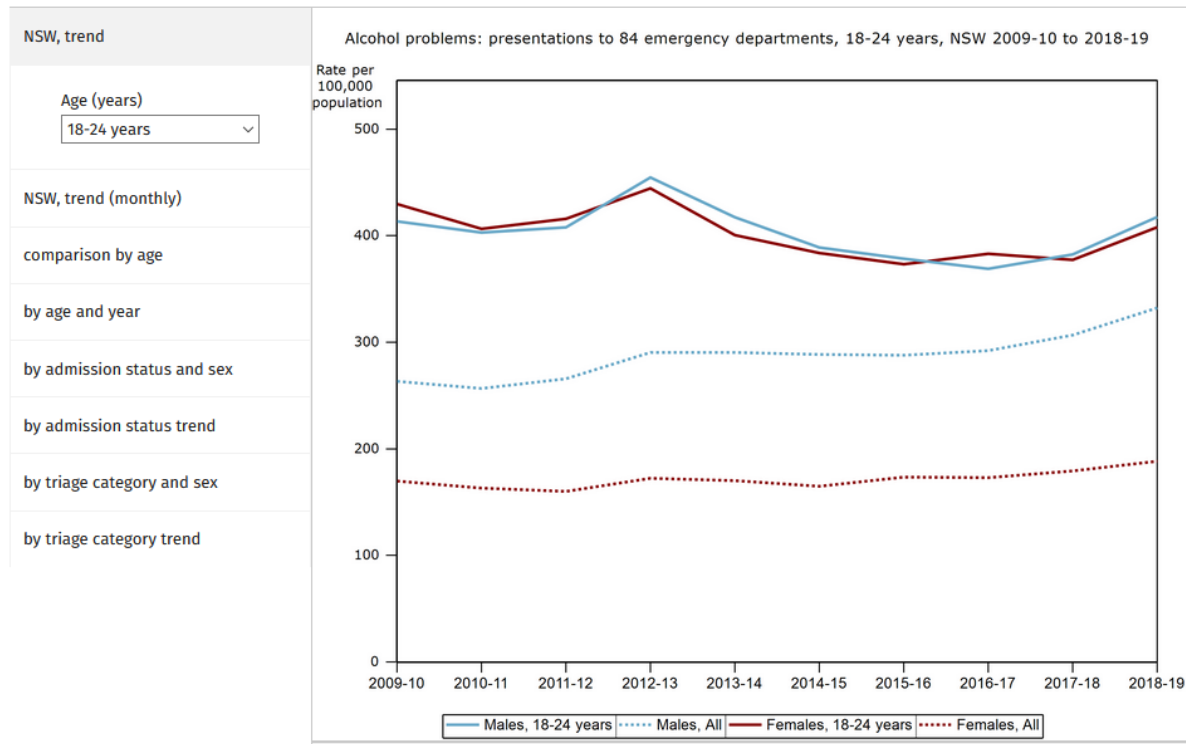
Dr Ziller's (Macquarie University) submission to this Bill supported by RACS, has exposed the unreliability of reliance on the above solitary 'alcohol related' statistic that we understand is the preferred harm measure of the alcohol lobby and ILGA. We also understand BOCSAR itself has previously expressed similar concerns to those of Dr Ziller.

The L&GNSW Summary also avoids any alternative or additional reliable statistics such as Department of Health and other statistics that indicate alcohol harms are increasing, including those related to domestic violence.

We provide the following personal accounts and statistics that portray a more balanced and reliable representation of alcohol harms.

² Page 7 of L&G Summary document.

Alcohol problems, presentations to emergency departments



Source: Healthstats NSW - 2009/10 to 2018-19 NSW rates of alcohol related ED injury http://www.healthstats.nsw.gov.au/Indicator/beh_alcedage/beh_alcedage

NSW Case studies – individual ED staff experiences

“Over three quarters of the staff who participated in this survey reported that alcohol was the most common factor contributing to the violence and aggression they had experienced, closely followed by use of other drugs, which again provides up to date evidence that is consistent with earlier research findings as well as with the general evidence that alcohol-related violence in NSW is on the increase”³

Alcohol continues to be one of the major causes of preventable disease in Australia. Drinking alcohol is associated with a risk of developing health problems such as mental and behavioural disorders, liver cirrhosis, some cancers and cardiovascular diseases, as well as injuries resulting from violence and road crashes⁴.

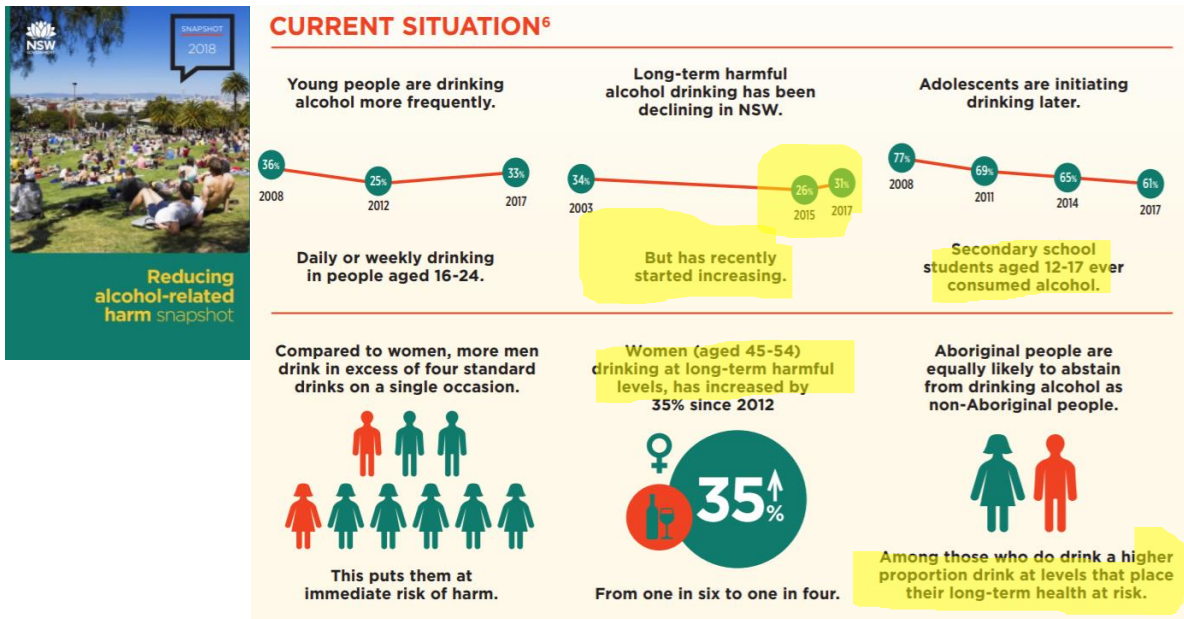
³ [https://www.ausemergcare.com/article/S1574-6267\(10\)00402-7/pdf](https://www.ausemergcare.com/article/S1574-6267(10)00402-7/pdf)

*Hilliar K. Police-recorded assaults on hospital premises in New South Wales: 1996-2006. NSW Bureau of Crime Statistics and Research; 2008.

*James A, Madeley R, Dove A. Violence and aggression in the emergency department. *Emergency Medicine Journal* 2006;23(6):431–4.

*Crilly J, Chaboyer W, Creedy D. Violence towards emergency department nurses by patients. *Accident and Emergency Nursing* 2004;12(April (2)):67–73

⁴ <https://www.health.nsw.gov.au/aod/Publications/alcohol-related-harm-snapshot-2018.pdf>



In February 2020, the NSW Government announced an Industry Advisory Group and development of a 24-hour Economy Strategy. We understand this group may have excluded any representation from independent medical and alcohol harm prevention experts.

The draft bill proposes to create a **single integrated incentive and sanction system based on demerit points.**

The intention of this proposal to foster amenity is commendable, however the evidence, to date, of curbing delinquent behaviour with this system of implied reward is lacking. The proposal is analogous to offering merit points to road users who do not speed.

RACS is supportive of **retention of the three (3) existing sanctions schemes** and requests that the bill **does not proceed** with an integrated demerit points systems and incentive scheme.

RACS is concerned that the merger of the existing sanctions scheme will weaken gains that have been achieved with the Violent Venues Scheme, which has proven successful since its introduction in 2008. Indeed, Liquor and Gaming NSW Director of Compliance Operations, Sean Goodchild, said in November 2019 : ‘*These results show our states licensed venues are now safer than they have ever been, meaning people can enjoy nights out with far lower risks of alcohol-related violence. For just the third time since the scheme began in 2008, there are no venues in the most restrictive level I category*’⁵

⁵ <https://www.liquorandgaming.nsw.gov.au/news-and-media/fewer-premises-on-violent-venues-list>

The evidence for the proposed amendment offering superior outcomes is lacking.

RACS acknowledges that most licensees are compliant with existing legislative requirements, but disproportionate harm is attributable to the small number who are not⁶. That this small outlying group will be coerced into better behaviour by the proposed amendment is unlikely. We seek assurances that there has not been a decline in the number of L&GNSW inspectors that could be one reason why the number of reported serious alcohol related incidents has declined under the 3 strikes scheme.

Many patients, managed by surgeons across New South Wales, are victims of alcohol related incidents that have taken place external to the place of sale or consumption, with several notable deaths⁷, and many admissions to hospital and Emergency Departments, with significant financial and social impacts on the community as well as individuals and families. This fact is unlikely to be materially improved by the proposed amendment.

The tenor of the proposed wording and anticipated operation of the legislation is disproportionately weighted in favour of the commercial operator, without sufficient balance and protection of the community adversely impacted by delinquent commercial operators of both on and off licensed/take away alcohol premises.

A bias in favour of the commercial operator / applicant might be interpreted in the phrase “remove red tape”. It is essential that applicants vending alcohol meet rigorous standards, and that “removal of red tape” does not degrade protection from alcohol related harm, which the legislation should provide, and which the NSW community reasonably expects.

RACS reiterates its opposition to the introduction of a new scheme when there exists an efficient system that, to date, has had a major impact in reducing violence and in protecting the public.

We acknowledge the economic benefits being sought under the proposed amendments, but contend that the secondary costs, to the community, to hospitals and to law enforcement have been insufficiently considered. We seek evidence of the financial modelling that incorporates these secondary costs, in the proposed legislative change.

With respect to the **refined evidence-based approach to manage the density of licenced premises** schedule, prudence is paramount with respect to timing any change to the existing density of licenced premises with the associated risks of alcohol related violence and anti-social behaviour.

The hospitality industry has been severely adversely affected during the coronavirus pandemic. This fact, coupled with the legitimate desire to reinvigorate the economy, should

⁶ https://www.bocsar.nsw.gov.au/Pages/bocsar_pages/Alcohol_Related_Violence.aspx

⁷ https://www.dailytelegraph.com.au/subscribe/news/1/?sourceCode=DTWEB_WRE170_a_GGL&dest=https%3A%2F%2Fwww.dailytelegraph.com.au%2Fnews%2Fopinion%2Fanthony-grabs-relaxing-lockout-laws-will-lead-to-more-violence%2Fnews-story%2F5a797de6d3dba222f6fec1f544167caf&memtype=anonymous&mode=premium

not put at risk the benefits for the NSW community which have been gained to date by the exemplary responses to the coronavirus pandemic, led by the Berejiklian government.

An ill-timed escalation in density of, or access to, licenced premises risks second wave effects and exacerbation of the health and economic harms of the pandemic – this has been amply demonstrated in Spain, the UK and elsewhere.

Same day fast home alcohol delivery of alcohol

Young people, particularly those under the age of 18 are vulnerable to the damaging effects of alcohol.⁸ In Australia alcohol is a key factor in the three leading causes of death among adolescents: unintentional injury, homicide and suicide.

- In 2012, young people aged 16-24 years of age were around twice as likely as the general population to drink at very high levels on a single occasion.
- For young people aged 18-24 years of age, the rate of emergency department presentations for acute alcohol problems was 54% higher in 2012 than in 2003.
- The rate of interpersonal violence hospitalisations in 15-24-year-old males were around four times that of females in the same age group.

Insufficient safeguards exist to reduce the risk of minors falsely accepting alcohol on behalf of their parents (s114 (7) and s114(3)).⁹ Reliable and accurate age verification is an issue.

RACS requests

- that deliveries be immediately halted until all deliverers successfully complete industry specific training program approved by Liquor & Gaming NSW
- minimum one hour delay in delivery of alcohol
- all home deliveries to cease by 10pm
- under no circumstance, should minors be allowed to accept alcohol deliveries on behalf of their parents and/or guardians.
- the Act should authorise control supervised purchases by under aged appearing actors to detect breaches of the law
- same legal authorisation to check for deliveries to unattended addresses

In addition, we consider it essential that delivery of alcohol to locations be prohibited where there is a record of AVOs, domestic violence and disturbances, under aged drinking and falsification of ID.

⁸https://www.police.nsw.gov.au/crime/drugs_and_alcohol/alcohol/alcohol_pages/alcohol_and_young_people

⁹ <https://www.legislation.nsw.gov.au/#/view/act/2007/90/part6/div1/sec114>

The first phase of alcohol law changes regarding the extension of hours to midnight for most NSW takeaway licenced outlets occurred without submissions from independent health experts¹⁰ or community input. The automatic application with no consideration of the outlets' compliance records and levels of surrounding disadvantage including high DV rates was disturbing. A recent study shows, even partial restrictions of off-premises sales reduces hospital admissions for alcohol intoxication across a wide age range. As such, we ask to immediate rescind the decision, with 10pm closing time for all off premise licenses and take away/home deliveries¹¹.

Thank you once again for the opportunity to raise these important issues with you. We welcome the prospect of meeting with the Committee and the Minister to discuss further.

Yours sincerely



Associate Professor Payal Mukherjee
Chair
RACS NSW State Committee



Dr John Crozier
Chair, National Trauma Committee
Representing NSW Trauma Network

¹⁰ <https://www.smh.com.au/national/nsw/the-return-of-midnight-bottle-shop-trading-gets-little-attention-but-expect-violence-to-rise-20200112-p53qgg.html>

¹¹ <https://onlinelibrary.wiley.com/doi/full/10.1111/add.14967>