

3 July 2014

Mr Ian Berry MP  
Chair  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
Brisbane, QLD 4000  
[lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

Dear Mr Berry

Thank you for the opportunity to provide a submission to the Legal Affairs and Community Safety Committee inquiry into *Safe Night Out Legislation Amendment Bill 2014*. Please find our submission attached.

QNADA represents a dynamic and broad-reaching specialist network within the non-government alcohol and other drug (NGO AOD) sector across Queensland. We have 36 member organisations, representing the majority of specialist NGO AOD providers. This submission is made following consultation with QNADA members.

QNADA would be happy to provide further information, or discuss any aspect of this submission. Please don't hesitate to contact me at [Rebecca.MacBean@qnada.org.au](mailto:Rebecca.MacBean@qnada.org.au) or by calling 07 3023 5050.

Yours sincerely



Rebecca MacBean  
**CEO**



## Submission to the Legal Affairs and Community Safety Committee

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### QNADA Vision

A cohesive, sustainable and high quality NGO AOD sector, that delivers the best possible outcomes for the Queensland Community. Four overarching strategies have been developed to support achievement of our vision



*Safe Night Out Legislation Amendment Bill 2014*

**July 2014**

This submission has been prepared by the Queensland Network of Alcohol and Other Drug Agencies (QNADA). The content of this submission is informed by consultation with QNADA member organisations providing treatment services in Queensland, as well as a review of relevant research and similar legislation enacted in other Australian jurisdictions. We have chosen to focus our submission on the two aspects of the *Safe Night Out Legislation Amendment Bill 2014* (the Bill) in particular: the mandatory condition of bail for offenders charged with prescribed offences of violence to participate in a drug and alcohol assessment and referral programme and the trial of a Sober Safe Centre in the Brisbane CBD.

### ***Amendments to the Bail Act 1980 (Mandated Bail Conditions of AOD Assessment)***

QNADA agrees it is past time we took decisive steps as a community to address the offending behaviour of individuals from whom alcohol is a precipitating factor and applauds the Government's intention to refer these individuals to assessment and treatment services. Queensland has had a successfully operating illicit drug diversion system in place for many years. At least two separate independent evaluations of the program found that the brief intervention provided not only resulted in a reduction or cessation of substance use, but also a reduction in other risk taking behaviours and spousal/partner conflict<sup>1</sup>. While the criteria for referral to this program requires an individual be facing an illicit substance possession offence, the evaluation also found that the intervention resulted in 86% of participants reducing their alcohol intake. As Queensland has experienced year on year increases in the incidence of individuals coming to the attention of police for behaviours directly related to their alcohol use, it seems long overdue for criminal justice instigated alcohol and other drug (AOD) programmes to be expanded to include alcohol-related offences. Unfortunately the suggested amendments to the *Bail Act 1980* included in the Bill will only capture those individuals whose alcohol use has already caused them to harm another person through an act of violence.

We recommend that the amendment to the Bail Act 1980 be expanded, or the Bill include amendments to other legislation, to allow for referral to treatment for offences in addition to the current list that focusses on assault related offences. For example, alcohol has been found to be involved in 76% of public nuisance offences<sup>2</sup> in Queensland. If Police were empowered to refer these individuals to a brief intervention, assessment and referral session, similar to that provided through the Queensland Illicit Drug Diversion Initiative, individuals would be provided an opportunity to consider the adverse consequences of their alcohol use prior to their behaviour progressing to a situation where another person is harmed.

It is for this same reason that we recommend the Bill remove the current disqualification of those under the age of 18. If young people can be referred to a treatment program designed specifically for youth substance use, rather than being cautioned or charged with an offence then we may be able to decrease the number of young people continuing on a path of

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<sup>1</sup> Najman, J. Morris, L. and Kempnich, C (2009) *An Evaluation of Illicit Drug Court Diversion and Police Diversion Programs 2009*

<sup>2</sup> Crime and Misconduct Commission (2008) *Policing Public Order: A review of public nuisance offence*

problematic substance use and all its attendant harms<sup>3</sup>. While it is important young people are not excluded from the opportunity to be referred to treatment, it is equally important the treatment they are referred to is designed specifically for young people and provided by a service that is tailored to young people, as evidence has shown that effective interventions for problematic substance use in young people are different to that for adults<sup>4</sup>.

### ***Amendments to Police Powers and Responsibilities Act 2000 (Provision for Sober Safe Centre trial)***

We support the trial of a Sober Safe Centre in Brisbane, however we are concerned that the legislative amendments proposed in the Bill do not provide sufficient protection for those taken into custody.

Alcohol and drug intoxication places an individual at risk of many dangerous, sometimes life threatening, complications. For example, while intoxicated an individual may be at risk of black outs, vomiting, reduced respiratory rate, rapid changes in mood, as well as other symptoms that require close monitoring<sup>5</sup>. In addition, if the individual has a physiological dependence on alcohol, they may develop life threatening symptoms of withdrawal in as little as six hours post consumption. As this is within the custody period provided in the Bill and may include seizures and delirium<sup>6</sup>, it is concerning that the Bill does not require at least one “health care professional” to be permanently present at the Sober Safe Centre, but rather only requires one to be available to assess an individual prior to and during admission to the Sober Safe Centre. We note that the Bill currently stipulates that the “manager of a sober safe centre must ensure the health and wellbeing of each person in custody at the centre is regularly monitored” however, we do not believe that this is sufficient to ensure the safety of individuals for whom potentially life threatening symptoms might arise.

In addition, it is concerning to us that the Bill provides no guidance as to what care should be provided to the “intoxicated person” while subject to custody at the Sober Safe Centre. Due to the intoxicated person’s vulnerable state, we believe a definition of adequate care should be included in the legislation. We recommend that the Bill include provisions similar to those found in the recent legislation from New South Wales for their trial of Sobering Up Centres<sup>7</sup>. This legislation stipulates in Section 12 (2) that the person “must, as far as is reasonably practicable, be kept separately from any person detained at the centre in connection with the commission or alleged commission of an offence” and “must be provided with food, drink, bedding and blankets appropriate to the person’s needs”.

Of equal concern is the provision for a “cost recovery charge” in the Bill. While we would not dispute the government’s right to recover reasonable expenses incurred, the increasing nature of the charge for subsequent admissions seems more like a penalty rather than a cost recovery exercise and one which will unfairly disadvantage individuals who are alcohol dependent, as well as people from vulnerable population groups like those with unstable

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<sup>3</sup> Toumbourou, J.W. Stockwell, T. Neighbours, C. Marlatt, G.A. Sturge, J. Rehm, J. (2007) Interventions to reduce harm associated with adolescent substance use, *The Lancet*, Volume 369 pg 1391-401

<sup>4</sup> *Ibid*

<sup>5</sup> *Alcohol Intoxication – Clinical guide*, <http://www.drugs.com/cg/alcohol-intoxication.html>

<sup>6</sup> Haber, P. Lintzeris, N. Proude, E and Lopatko, O. (2009) *Quick Reference Guide to the Treatment of Alcohol Problems*, Australian Government Department of Health and Ageing

<sup>7</sup> Government of New South Wales (2013) *Intoxicated Persons (Sobering Up Centres Trial) Act 2013*

housing who are generally more likely to come to the attention of the Police. We recommend the increasing scale of charges be removed and provisions included that allow for the individual to apply for the charge to be waived such as those found in section 19 of the NSW legislation.

Finally we suggest the Bill include provision for individuals to voluntarily admit themselves to a sober safe centre. While we acknowledge it is unlikely that an individual would take themselves to a sober safe centre for admission, provision for their friends or another person (eg a chill out zone worker or a Chaplain) who is concerned for the safety of the individual to take them to the sober safe centre would provide another opportunity for a person to be kept safe.

We congratulate the Government on the decision to take action regarding the increasing social problems caused by alcohol. The additional amendments we have suggested to the Bill will assist in achieving the goals stated in the *Safe Night Out Strategy* while also protecting vulnerable people who may be subject to the legislation's provisions and facilitate early intervention prior to problematic substance use impacting other people in the community through violence.

#### *About the Queensland Network of Alcohol and Other Drug Agencies (QNADA)*

QNADA is the peak organisation representing the views of 36 NGO AOD organisations. Through our knowledge of the sector, network of experienced members and links across complementary human service delivery sectors, QNADA is well placed to provide practical advice and front-line service delivery experiences to inform policy and program advancement for the sector.

The sector consists of organisations involved in the continuum of care for individuals and their families affected by alcohol and drug use. QNADA members provide drug education and information, early intervention, outreach, detoxification, residential rehabilitation, psychosocial and medical treatment, relapse prevention, justice diversion, and social inclusion.