

3 July 2014

The Research Director
Legal Affairs and Community Safety Committee
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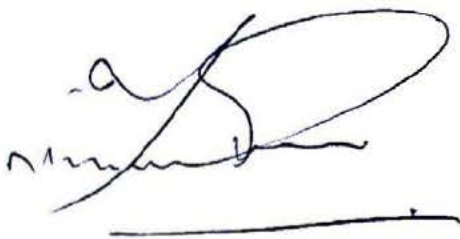
Dear Sir / Madam

Thank you for the opportunity to submit comments in relation to the Committee's consideration of the *Safe Night Out Legislation Amendment Bill 2014*.

The Queensland Hotels Association has considered the *Safe Night Out Strategy* document dated June 2014 which informed the *Bill*, and the *Bill* itself, and is pleased to make a submission, which is attached.

Please do not hesitate to contact me should you require clarification or expansion on any of the issues raised.

Yours sincerely



T.H. McGuire
President

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**QHA SUBMISSION TO THE *LEGAL
AFFAIRS AND COMMUNITY SAFETY
COMMITTEE* CONSIDERATION OF THE
*SAFE NIGHT OUT LEGISLATION
AMENDMENT BILL 2014***

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COMMITTEE CONSIDERATION OF THE SAFE NIGHT OUT LEGISLATION
AMENDMENT BILL 2014**

References:

- A. *Liquor Act 1992*
- B. *Liquor Regulations 2002*
- C. *Liquor and Gaming (Red Tape Reform) Bill 2013*
- D. Department of Justice and Attorney-General Red Tape Reduction Discussion Paper dated February 2013
- E. *Queensland Code of Practice for the Responsible Service, Supply and Promotion of Liquor*, June 2005
- F. Queensland Government *Safe Night Out Strategy* document dated June 2014
- G. *Queensland Safe Night Out Legislation Amendment Bill 2014*

Introduction

Thank you for the opportunity to provide further input into the development of Queensland's *Safe Night Out* strategy and supporting legislation.

As an over-arching comment, the Queensland hotel industry welcomes the proposed range of measures and the philosophy underpinning the *Safe Night Out Legislation Amendment Bill 2014* because, for the first time in recent years, the application of common and universal trading conditions in the proposed high-traffic late night areas means that there will be very limited options for those patrons who think the rules don't apply to them, or who have poor intent. Universal ID scanning will remove the anonymity which some trouble makers rely on, will put teeth into official and venue banning orders, will assist the police service to apprehend trouble makers and criminals and hold them to account, and will reassure the majority of patrons who just want to have a good time in a safe environment, inside and outside of licensed premises. This approach has clear potential to remove bottom feeders and raise standards of both patron behaviour and venue vigilance. Most importantly, it will confront serious and repeat trouble makers with their own behaviour and accountability.

Further, the combined focus on community and patron education, higher levels of accountability and penalties for offenders, and measures aimed at further improving industry service and supply standards offers the prospect of a significant reduction in the mis-use of alcohol and illegal drugs, and the associated anti-social and criminal behavior, in Queensland's nightlife precincts.

We all know that around 70% of alcoholic beverages by volume are consumed in other than a licensed venue in Queensland, and nationally. We also know that alcohol consumption in Australia is trending lower, with average consumption per head down 25% over the last thirty years and beer sales now the lowest in 60

years. This means that it is not the *volume* of alcohol being consumed that is the central issue, but the *nature* of the consumption and the *attitude* of certain consumers to their own social and legal obligations, including in a nighttime entertainment environment. It therefore stands to reason that education and solutions towards a more responsible drinking and socialising culture is the long term solution, and that such education must embrace all of the population, and consider all areas where mis-use and anti-social behaviour can occur. The *Safe Night Out* strategy and the regulatory changes proposed in the *Safe Night Out Legislation Amendment Bill 2014* represent an additional piece in the jigsaw of best practice, and industry looks forward to contributing to its successful implementation.

The Queensland Hotels Association (QHA) welcomes the Government's overall policy goals of continuing efforts to bring about a more responsible socializing, behaviour, drinking, and drug-taking culture in Queensland, particularly amongst our young adult population. At the outset, we state that the Queensland hotel industry supports and strives to adhere to, the core patron and harm minimization principles of the Queensland *Liquor Act 1992* and associated regulations and voluntary codes. The industry supports an evidence-based approach to the development of public policy, and makes this submission in the interests of sharing our corporate experience and knowledge, and with a view to putting additional flesh on the bone of the outline plans and proposals enunciated in the *Safe Night Out Strategy* documents and the more specific proposals enunciated in the *Safe Night Out Legislation Amendment Bill 2014*.

Preamble

The Association submits that, in the eight years from 2005 to the present time, considerable progress has been made in further improving patron safety and licensed business amenity throughout Queensland. This has been achieved through a comprehensive range of regulatory and legislative measures, through ongoing commitment to improved training, facilities, and best practice by licensees, and by a steady but ongoing reduction in the per-capita liquor consumption of Queenslanders. Unfortunately, these changes have been brought about in a piecemeal, sometimes unilateral, and iterative manner involving an uncoordinated series of Government reviews, inquiries and one-off policy and regulatory interventions which, taken as a whole, have introduced more than 100 separate changes to the policies, practices, guidelines, standards and compliance requirements which apply to licensed businesses in Queensland. The imposition of these changes has been at considerable revenue and expenditure cost to industry, including reduced revenue from shorter trading hours, higher costs through the imposition of mandatory industry training and qualifications standards, and the imposition of an annual 'liquor licence administration fee' (state tax) on licensed businesses. The conservative costs to Queensland's licensed businesses of these regulatory changes is more than \$150 million each year, recurring.

By 2010, it had become clear that the Queensland licensed industry was suffering from 'reform fatigue' wherein the pace, frequency and nature of regulatory change had reached the stage where licensees were no longer able to effectively 'track' ongoing changes to venue requirements, and this was undermining industry's long-standing commitment to work cooperatively with Government and regulators to bring about constructive change. In this regard, the high volume and tempo of regulatory changes and impositions had become counter-productive, as Queensland's licensed industry had become jaded and disillusioned with the high cost and low level of consultation from Government associated with the process. All this occurred at a time of very depressed licensed trading conditions and low profitability resulting from the Global Financial Crisis and amidst four years of very low consumer confidence and spending between 2009 and 2013.

Since 2010, Queensland's licensed industries have been seeking a period of regulatory consolidation to enable the many and varied changes that have been imposed over recent years to be 'bedded down' and to enable the full effects of the changes to be reviewed in a stable trading environment to see what measures are having effect and which measures are not.

In this context, the hotel industry welcomes the Government's *Safe Night Out Strategy* focus on targeted measures aimed at those physical areas, licensed trading periods, and patron demographics which are of most concern to the regulator, the public, and the licensed industry itself. Refreshingly, the Queensland Government has resisted the temptation to simply apply more and more compliance measures for every licensed business across Queensland. It has consulted widely to derive a sensible series of targeted measures which should not only build effectively on the good work done in the past, but also strengthen our responsible practice framework around alcohol and associated licensing policy.

SPECIFIC COMMENTS RELATING TO ISSUES RAISED IN THE *SAFE NIGHT OUT STRATEGY* AND THE *SAFE NIGHT OUT LEGISLATION AMENDMENT BILL 2014* PROPOSALS

Safe Night Precincts (SNPs)

A centrepiece of the strategy is the intention to develop (up to) 15 *Safe Night Precincts* (SNPs) in major Queensland population centres where special trading, policing and support measures will be deployed or available to support the higher level of late night patronage, foot traffic, licensed and other business activity, and anti-social and criminal behaviour including drug-taking and pre-meditated violence that attends higher numbers of people socialising and inter-acting in the late night environment. The intention to develop up to 15 Safe Night Precincts follows on logically from the evolutionary success of Queensland's liquor accord strategy and the limited but successful *Drink Safe Precinct* trials, and the concept has the strong support of the hotel industry. The strategy makes it clear that common late night trading conditions will apply to every licensed business trading

after midnight in these precincts, and a range of measures have been suggested or outlined including the mandatory requirement to operate and maintain patron identity (ID) scanners which are networked within each precinct, and which are pre-loaded with the names and details of those citizens who are subject of an official court or police ordered banning order. The hotel industry strongly supports this measure which has the potential to bring clear accountability and social embarrassment to those serious and/or repeat offenders who have broken the law. It is the Queensland Hotels Association's view that the basic model for the DSPs has been illustrated and proven through the current *Drink Safe Precinct* trial sites in Townsville, Fortitude Valley and Surfers Paradise, and through the success of Queensland's Liquor Accord processes in successfully identifying and coordinating specific local solutions for local problems, irrespective of whether they relate to alcohol mis-use. Accordingly, the following guiding principles and practical application measures are recommended in relation to the further development of the proposed *Safe Night Precincts*:

- That, where feasible, the proposed Local Board structures evolve from the existing local liquor accord groups and structures, with the involvement and advice as necessary from the local council, the Police OIC, and the Chamber of Commerce or equivalent. The Local Board should be comprised mainly of people who have a direct interest in the activities of the Safe Night Precinct because, by definition, its decisions will involve the setting of priorities for activities, funding and evolution of the on-the-ground measures.
- That a centrally agreed menu of patron care and safety measures be agreed by Government, and it be from this menu of choices that local SNP Local Boards seek to implement measures, seek funding and raise funds;
- That the menu of SNP measures include but not be limited to the following: chill-out zones, street lighting, precinct wide or public street CCTV, in-venue CCTV, drug and specific-to-need counsellors, public toilets, improved late night transport, pedestrian safety measures such as barriers and bollards, controlled and well-lit taxi ranks, temporary *Police Beat* type sites in the event that the nearest police station is remote from the precinct, and ID scanners in each late-trading venue which include real-time photographs of patrons. It is likely that, as with the Drink Safe Precinct trial sites, the *Safe Night Precincts* will evolve from the local liquor accord groups, with additional high visibility policing and allocation of seed funding adding momentum to the changes.
- That there be a standing requirement for all venues trading liquor after midnight on specified days to be required to operate current technology ID scanners incorporating real-time still photography as a condition of remaining open.
- That an exemption to the SNP measures be made for bona fide accommodation businesses located in SNPs and which meet specified criteria (more later).

Recommendations: The following recommendations are made:

- That the proposed SNP proposals be adopted;
- That the proposed mandatory ID scanning regime be approved as outlined in Reference G (but from a later commencement time than 8.00 pm – see later);
- That the Local Board structures evolve from the existing local liquor accord groups and structures, with the involvement and advice as necessary from the local council, the Police OIC, and the Chamber of Commerce (equivalent);
- That a centrally agreed menu of patron care and safety measures be agreed by Government, and it be from this menu of choices that Local Boards seek to implement measures, seek funding and raise funds; and
- That it be a standing requirement for all venues trading liquor after midnight to be required to operate current technology ID scanners incorporating real-time still photography as a condition of remaining open, with the exception of bona fide accommodation providers located inside SNPs.

Safe Night Precinct Locations

The *Strategy* proposes that 15 *Safe Night Precincts* be defined and developed in major population centres. The 15 SNPs include the existing eight major entertainment precincts as well as seven other areas, mainly in regional cities. The basis for identifying these precincts is not discussed in the publicly available documents, but it is assumed that the determination was based on an assessment of the combined influences of licensed business density, the size of the local population group, and a basic analysis of the police incident reporting data in the various regions of Queensland. To the outside observer, it appears that the nomination of Rockhampton CBD and Bundaberg CBD seem to outliers, in that the level of late night activity and night-oriented businesses is significantly lower than in some of the other locations identified for SNPs. Should this be the case, then there may be merit in taking a staged approach to the establishment and development of the SNPs, with those locations that already have an effective and functioning liquor accord being first cabs off the rank, with others commencing from a later date, thereby taking advantage of the ‘lessons learned’ from the first movers.

Recommendation: The following recommendation is made:

- It is recommended that a staged approach to the establishment and development of the SNPs be considered, with those locations that have an effective and functioning liquor accord being first cabs off the rank, with other SNPs commencing from a later date, taking advantage of the ‘lessons learned’ from the first movers.

Identity Scanning

The hotel industry strongly supports, on the basis of empirical and relevant industry evidence and experience, the in-principle requirement for all venues trading after midnight within a SNPs to be required to have manned, functioning and networked identity scanners incorporating real-time still photography of scanned patrons on those days and at those times when the nature of patronage or activity warrants such measures. In the industry's experience, use of ID scanning technology brings with it a range of benefits which far outweigh the disadvantages of such systems. The advantages include:

- The temporary capture of identity and proof of age documents acts as a strong deterrent to potential anti-social or criminal behaviour, including assault, sexual harassment, and offering of false or doctored identity documents. Scanning removes the anonymity from a group of patrons, and therefore acts as a direct deterrent to those who might otherwise choose to perpetrate stupidity or worse. Young people are generally aware of the capabilities of the technologies, and those seeking to create trouble will generally adjust their attitude or avoid venues which have such technology;
- Scanned information can assist the Police and others so authorized to identify and apprehend the perpetrators of criminal acts in a timely manner. This is particularly the case when real-time images are simultaneously available which provide an up-to-date image of the appearance of scanned individuals;
- To be properly effective, any official or venue-initiated banning order must be able to be consistently enforced. Networked ID scanners provide this capability and such networking will both give 'teeth' to banning orders, and also result in the social embarrassment and exclusion of those with a criminal or violent history; and
- Accountability – the widespread deployment of ID scanners brings direct accountability to those who have been officially or locally banned. When refused access or warned at the door of a licensed venue based on a scanning 'flag', individuals are not only held to account for former bad behaviour, but also embarrassed in front of their peers. This, together with the impact on group social inter-action of banned individuals' refusal of entry, results in peer pressure on the individual to change their behaviour and their attitude. In extreme cases, it will result in the outlier being socially removed or 'banned' from their social grouping. As peer pressure is one of the very strongest motivators in the target demographic group, the ability of scanning technology to impact peer pressure in such a way is, potentially, a very powerful culture shifter.
- The conditions outlined for the use, maintenance and deployment of the ID scanning network in Reference G are supported (with the exception of proposed commencement time and seven-day application – more later).

Concerns about the proposed scanning regime: Notwithstanding this strong in-principle support, the licensed industry is concerned that the conditions set for

a mandatory ID scanning regime in SNPs should be workable, practical, commercially affordable, and will not seriously penalize well-managed and well-intentioned licensed businesses. It is noted that both the Premier's first reading speech when introducing the draft *Bill* into the Legislative Assembly and Section 173EH of Reference G indicate that it is intended that regulated premises/licensees will be required to meet their intended ID scanning obligations from 8.00 pm on a day that they are approved to trade beyond 12.00 midnight. This intended regime, including the draft *Bill* needs to be re-visited such that the practical application and execution of the mandatory ID scanning regime is not so onerous that it has the practical effect of rendering the operations of the licensed premises uneconomic or physically impractical as a consequence of compliance with the ID scanning requirements. For example, almost every hotel venue that is located inside the proposed SNPs will have multiple entrances and exits which are open in the daytime and in the early parts of the evening. As the evening progresses, and as the nature and number of patrons evolves from the 'family' or 'dining' crowd to the 'night-time' crowd, so does the security, staffing and entrance control arrangements of the venue evolve, with a much heavier emphasis on control and patron vigilance. In this context, it is suggested that mandating the proposed ID scanning regime from the relatively early time of 8.00 pm will be commercially very harmful for some businesses, will result in an expectation that cannot be physically mounted without disproportionate expense, and which is not justified by the risk profile of licensed trading at that time of the day. To be clear, it will require at least two dedicated staff members to effectively operate and enforce a single ID scanning point, and this means that most venues will choose, for commercial reasons, to operate only a single entry and exit point from the commencement time of the ID scanning regime. If one imagines a large crowd of prospective patrons leaving a State of Origin football game with many looking to enter licensed premises in a proposed Caxton Street SNP, then the potential for large lines to form, prospective patrons to turn away, disruption to pedestrian traffic, and the heightening of tension through frustration, then this scenario illustrates the critical importance that the ID scanning regime, and its regulatory framework, be got right. It is therefore strongly recommended that further and detailed consultation take place with existing Accord and LIAG groups in the DSP and similar high-traffic areas with a view to the requirements for mandatory ID scanning times and locations being refined and agreed.

The current *Bill*. The current *Bill* provides that:

- Mandatory ID scanning will be required for licensed premises which are authorised to trade post midnight and which are located inside the *Safe Night Precinct* boundaries (Note that this suggests ID scanning will be required even on those nights that the venue does not actually trade past midnight, because the Bill refers to the venue being "Authorised under the Act");

- That mandatory ID scanning is proposed to commence from 8.00 pm within SNPs for venues which are Authorised (to sell and supply liquor) to during “all or any part of the period between midnight and 5 a.m.”; and
- No mention is made of exemptions from the ID scanning regime.

The first observation to be made is that ID scanning should only be required on those nights that the venue actually trades after midnight, as opposed to a premises that has licensing conditions which allow it to trade after midnight but which chooses (for commercial or other reasons such as inclement weather) not to. It is quite common for licensed businesses not to be open, or to choose to close early, during time periods where they have licensed rights to trade. A typical scenario is a business which is licensed to trade until 2.00 am on seven days of the week, but which generally only opens late on Thursday, Friday and Saturday because there is not enough demand on the other ‘quiet’ nights of the week. Note also that licensees generally choose to retain these non-economic trading hours rights because trading hours entitlements play a part in calculating the capital value of a licensed business and, once surrendered, can be difficult to regain. It is industry’s view that it was and remains the clear intent of the Government and the industry that the ID scanning regime would only apply to licensed premises that are actually trading and open after midnight,. In this case, the drafting office has used language and expression that is subject to interpretation by the regulator. This ambiguity must be cleared up.

Days of the week: In the hospitality industry, and particularly in the night economy, the busy trading nights are Thursday, Friday and Saturday. As a general rule, entertainment precincts and general licensed businesses are quiet on the other nights of the week, unless they precede a public holiday or involve a special event such as New Year’s Eve. Given the labour resources required to maintain an ID scanning regime, it would be difficult to justify a seven days per week mandatory ID scanning regime based on the risk profile and commercial profile of a typical Sunday to Wednesday period. It is therefore recommended that the initial SNP conditions mandate ID scanning as follows:

- Thursdays to Saturdays;
- The eve of gazetted Public Holidays;
- Other days as declared by the OLGR from time to time (e.g. Exhibition Holiday, New Year’s Eve etc); and
- Required on nights when the venue is actually trading after midnight.

Such a regime would strike a sensible balance between addressing the known and statistical higher risk days of the week, whilst not requiring licensees to maintain a costly scanning regime on nights of the week where there were few patrons or criminal etc incidents.

Commencement time for mandatory ID scanning: This is a key and vital factor. The draft *Bill* indicates that mandatory ID scanning will commence from 8.00 pm in SNPs. This is problematic, not justified by the risk, commercially

damaging, and should be changed. Currently, the *Brisbane City Safety Action Plan*, based on previous OLGR research and evidence, requires the heightened

security regime in late-trading venues to be 'activated' from 11.00 pm. This relates to a range of measures including mandated ratios of security staff.

Extensive liaison with night traders indicates that there is a distinct 'cross-over' between the early and late night patrons in the period sometime after 10.00 pm. That is, in the period prior to 10.00 pm, the typical patron profile of a licensed premises comprises mainly dining guests, couples going to or returning from events, people watching sport such as evening football, or 'left-overs' from the day trade. The young people who frequent the SNP areas typically commence to

arrive after this time, and it is at this time that the ID scanning regime should be targeted. By way of example, many nightclub-style licensed venues in Fortitude Valley or Surfers Paradise do not even open their doors until 9.00 pm on Thursday and Friday nights. Consequently, we need to collectively identify and agree a revised and workable commencement time for the mandatory ID scanning regime that not only achieves the aim, but also avoids imposing an unnecessary and commercially harmful solution on licensed premises. As we all know, water will find its own level in many respects and some venues will want to commence their scanning regime earlier than the set time, irrespective of what time is mandated. (For example, currently, the Victory Hotel in the CBD commences mandatory scanning for all new entrants from 6.00 pm on Friday and Saturday nights – their clientele has got used to it and still comes).

Identifying trouble makers: Irrespective of the final commencement time, it will be prudent to develop and implement simple mechanisms and protocols for 'sweeping' a venue at the commencement of ID scanning to identify patrons who are already on the licensed premises and who might be looking to avoid or escape the ID scanning requirement. The aim of course is to defeat potential trouble makers, or those with a track record, from 'sneaking' into a venue shortly prior to the commencement of the ID scanning regime. To this end, some venues which already have ID scanning in place have developed a range of mechanisms to defeat this kind of behavior, and the process varies depending on the size of the venue, the nature of the technology, and the human resources available to sweep the premises. For most venues, a structured 'sweep' of the venue aimed at identifying banned or suspicious patrons, or patrons who will be required to undergo scanning in order to remain on the premises, might be adequate. We should also seek input or example from other jurisdictions (such as Geelong) for ways to meet this objective.

Recommendations: The following recommendation are made:

- It is recommended that any final regulations for the ID scanning regime only apply for those days on which the respective licensed venue will actually open and trade after midnight, as opposed to those days when the licensed premises may be entitled to trade after midnight but chooses not to;

- It is recommended that the mandatory ID scanning regime in SNPs apply on Thursday to Saturday nights inclusive, as well as other high patronage evenings identified and advised by the OLGR from time to time;
- It is recommended that, as a general rule, mandatory ID scanning not be required in SNPs from Sunday to Wednesday nights inclusive;
- It is recommended that the universal commencement time for mandatory ID scanning be initially set at 11.00 pm, and that this time be subject to review after a suitable period of application;
- It is recommended that all venues trading after midnight within a SNP be required to have manned, functioning and locally networked identity scanners incorporating real-time still photography of scanned patrons on those nights of the week that the regime applies, and on which the venue is open for licensed trade after midnight (except for bona fide accommodation businesses);
- It is recommended that venues within SNPs be authorized to operate ID scanning equipment outside the mandatory scanning hours; and
- It is strongly recommended that further and detailed consultation take place with existing Accord and LIAG groups in the SNPs and similar high-traffic areas with a view to the requirements for mandatory ID scanning times and locations being refined and agreed.

Potential geographic dislocation of banned patrons resulting from scanning operations

The intended mandatory deployment of scanning technology in after-midnight SNPs has the potential to encourage dislocation of those patrons who are on the banned list(s). This means that such patrons may decide not to bother attending an SNP venue, but instead move their trade and attendance to a licensed premises located outside of, or adjacent to, an SNP. Naturally, those venues located outside of an SNP will not want to welcome the trade of banned patrons who are not permitted in SNP venues.

The natural extension of this process is that some venues located outside of the SNPs but which trade after midnight will themselves want to install and operate ID scanners with a view to excluding those patrons who are on the banned lists, and who are not permitted entry to SNP premises. Examples of the types of premises which are being referred to are the Eatons Hill Hotel and the Alexandra Hills Hotel, both of which are located outside of the proposed SNPs, but both of which have late night entertainment offerings to large numbers of patrons. There are many other such venues, including community clubs. It is therefore recommended that provision be made for such late-trading venues located outside of intended SNPs to be permitted to apply to, and join, the networked ID scanning regime, including the ability to access the official court and police banned list on similar terms to those licensed businesses located inside the SNPs.

Recommendation: The following recommendation is made:

- It is recommended that provision be made for late-trading licensed venues located outside of intended SNPs to be permitted to apply to, and join, the networked ID scanning regime, including the ability to access the official court and police banned list on similar terms to those licensed businesses located inside the SNPs.

Privacy

We note and support the privacy requirements outlined in the *Safe Night Out Legislation Amendment Bill 2014*. Current industry policy, based on formal advice from the Australian Privacy Commissioner, is that a range of privacy obligations which are consistent with the *Privacy Act 1988 (Cth)* must be met by businesses and individuals which operate ID scanning systems. These basic requirements include:

- Maintaining a complying *Privacy Policy*;
- Relevant disclosure signage at the point of ID scanning;
- Requiring that the act of providing an ID document for scanning remain a voluntary act (but that it can be a condition of entry);
- Appropriate security arrangements for personal information.

To this end, the QHA has developed a template Privacy Policy for member venues, together with privacy guidelines for the use of ID scanning equipment.

Recommendation: The following recommendation is made:

- That the privacy conditions specified for ID scanning in the *Safe Night Out Legislation Amendment Bill 2014* be adopted.

Respect for Police and operations of the Police

Within the night-time economy, there is no greater deterrent to anti-social and criminal behaviour than a blue-shirted police officer. However, in modern times there has emerged two phenomena which have reduced the effectiveness of on-the-street police operations. The first is the apparent inability of operational police to act decisively in street confrontation situations due to the mis-match between the number of 'revelers' and the number of police officers on the street and at the specific site. The second factor is the apparent, and in some cases blatant, lack of respect shown by some (particularly) young patrons for those in authority, including the police, to the extent that some individuals think that they can ignore, taunt, assault, or generally disrespect police officers and their mission. Anecdotal commentary is that some operational police desist from apprehending young offenders because 'it's more trouble than it's worth, and they get no punishment anyway'. The results of the three-site *Drink Safe Precinct* trials clearly demonstrate that, when deployed in sufficient numbers and

when empowered with ‘quick apprehend’ techniques where an offender does not necessarily need to be ‘booked’ by the relevant officer in a time-consuming process, the effectiveness of the police street operations in dramatically increased. If idiots know that they will be held immediately accountable for bad or illegal behaviour, the entire ‘vibe’ of the night precinct can be changes for the better almost overnight. It is therefore essential that the police lessons from the *Drink Safe Trial* be shared and used in the proposed SNPs.

In respect of the effectiveness of police operations, it needs to be clearly understood that in the proposed SNPs, the majority of anti-social activity happens outside licensed premises, in public spaces and non-licensed environments, so the coordinated street supervision and intervention of effective police operations is a seminal requirement of any SNP arrangement.

Recommendation: The following recommendations are made:

- That the police lessons learned from the *Drink Safe Trial* be shared and used in the proposed operating standards for SNPs; and
- That the ability of police to issue Banning Orders and Extended Police Banning Orders be confirmed, as outlined in Reference G.

Proposed changes to Police powers and banning notices

The Queensland *Safe Night Out Legislation Amendment Bill 2014* outlines a significant number of enhanced powers and intervention arrangements for officers of the Queensland Police Service. Principal amongst these are recommendations that police officers be able to issue on-the-spot Banning Notices and, later, Extended Police Banning Orders which have immediate effect and which endure for up to 10 days and three months respectively. It is also proposed that the police service be empowered to establish and supervise a Sober Safe Centre trial, under potential user-pays arrangements, to test the desirability, cost-effectiveness and effectiveness of such a patron safety measure.

Given the circumstance where a majority of late-night violent incidents happen on the street or in other public spaces, and that such incidents sometimes involve a perpetrator or victim who is intoxicated with illegal drugs, alcohol, or other substances, then the potential for one or both of these measures to be effective harm reduction measures is clear. Consequently, the QHA supports all of the proposed changes to police powers and interventions which are outlined in the *Safe Night Out Legislation Amendment Bill 2014*

Section 602S to 602W of the *Safe Night Out Legislation Amendment Bill 2014* specify the conditions and authorizations attached to the taking of, distribution of, and destruction of photographic images of those persons subject to official banning orders. The requirement for this capacity to remain intact in the final Act cannot be stressed too highly. For an effective and deterring ID scanning regime to operate, it is fundamental that the ability to cross-match the image of a person

to their offered identity document be maintained. Making the image or photo of an offender available to the ID network reduces the potential for such people to circumvent the banning system through the use of false or doctored ID documents, and also enables venue door and security staff to undertake effective 'homework' in relation to intercepting banned patrons outside of the specified ID system operating times. There are many practical and experience-based reasons why it is essential that the photographic image of banned persons, offenders and criminals be authorized to be distributed on the ID scanning network, but suffice it to say that the conditions outlined in the draft *Bill* are strongly supported by the hotel industry.

Strengthening RSA and extending the definition of 'Unduly Intoxicated'

The *Safe Night Out Strategy* and the *Safe Night Out Legislation Amendment Bill 2014* foreshadow an intention and a range of specific measures to render even more effective the State's Responsible Service of Alcohol (RSA) system. The Queensland hotel industry has in the past supported the universal and mandatory requirement for RSA for all retail sellers of alcoholic beverages, and sees this requirement as being a basic and essential first step in the protection of consumers and servers of alcohol products. RSA is not an end to itself, but is simply one of a suite of responsible practice and responsible consumption measures which, taken as a whole, help to generate and support an effective patron care system. Currently, the OLGR has commenced an RSA enhancement project in which it will work closely with industry and other stakeholders with a view to developing an even more effective RSA regime in the State. Whilst it is early days, and Queensland already has a strong RSA culture in place, we assess that this project has the potential to bring about improved culture, through a range of measures including wider publicity, greater emphasis on RMLV, aggregation of a number of responsible and best practice guidelines into a single area/document, and targeted youth education concerning RSA and RCA.

Secret shopping for RSA compliance. The *Strategy* flags an intention to develop an undercover system involving 'secret shoppers' for surveilling and checking on RSA compliance in venues. Naturally, the licensed industry is not supportive of such an approach which it sees as being furtive, sneaky, not 'up-front', not justified by the current level of industry compliance, and subject to abuse by over-zealous or philosophically aligned enforcement officers. Given strong industry support for Queensland's existing universal and mandatory RSA regime, industry offers that the proposal for 'undercover' RSA marshals or officers who might imitate the behavior of an unduly intoxicated patron amounts to the potential for an official entrapment regime, where officers are more concerned about their acting and undercover skills, than they are in enforcing the existing RSA laws and working with licensees to further improve the existing system of compliance. Such a regime has clear potential to strain relations between the regulator and the industry, and to weaken industry support for the existing universal RSA system.

Should it be determined that such a process will be introduced, it should be subject to strict controls and standards, and deployed only in those licensed venues which have a demonstrated record of non-compliance with RSA laws.

Recommendation: The following recommendation is made:

- It is recommended that industry and the OLGR continue to work cooperatively with a view to further strengthening Queensland's already-strong RSA regime, and that greater emphasis be placed on the availability of an RMLV-qualified supervisor or manager to be available to all licensed businesses, but essential for those trading after midnight.
- That the revised and extended definition of 'unduly intoxicated' outlined in Clause 30 of Reference G, be adopted; and
- That the proposed, undercover 'secret shopper' regime for checking RSA compliance within an entrapment scenario, not be pursued.

Youth education

The *Strategy* outlines an intention to make it compulsory for every Queensland student from Year 7 to Year 12 to undertake risk cultural training each year. The QHA supports such exposure and potential attitude adjustment training for young people, particularly young males, and has significant experience in this through its provision of RSA courses to a wide range of schools in Queensland in recent years. Generally, secondary school students are highly engaged with such training as it is 'different' and deals with adult themes and issues. They are interested to know what the rules are, what it's like to be drunk, and can easily relate to the 'everyone's responsible' theme.

However, based on the Association's extensive experience with youth RSA education, it is suggested that such training might best be focused on years 10 to 12, with more basic 'community' and 'citizenship' themes for the more junior years. It is not until around the age of 15 years that students begin to directly relate to the situations and experiences that they are about to engage with as young adults. They can be spoken to frankly, exposed to video and still imagery that is more confronting, and can maintain concentration that enables them to better assimilate a range of themes in one session. The QHA supports the proposed youth and student education proposals, and recommends that consideration be given to targeting Years 10 to 12 for the proposed youth education curriculum featuring drug, alcohol and violence themes.

Recommendation: The following recommendation is made:

- That consideration be given to targeting Years 10 to 12 for the proposed youth education curriculum around alcohol, illegal drugs and other adult themes, but that the program be or a more generic and 'citizenship' theme should it be delivered at Years 7 to 9.

Exemption for accommodation providers located in SNPs

The Queensland Hotels Association seeks and recommends an exemption from the mandatory SNP provisions, in respect of scanning and security staff, for licensed businesses that might be considered genuine accommodation businesses. That is, there is a distinct difference in focus, customers, modus-operandi and risk attached to accommodation oriented businesses, compared to those whose sole purpose is the sale and supply of alcohol for consumption on the premises after midnight. Within the proposed SNP CBD areas there will be quite a few (50 in Queensland ?) licensed businesses the primary purpose of which is to provide accommodation services but which also hold a commercial hotel liquor licence. These include names such as Hilton, Sofitel, Rydges etc.

These businesses do not cater for, and are not part of, the night economy. However, they do remain open late into the night to cater for late arrivals such as flight crew, and to provide around-the-clock services demanded of the hotel industry's star rating system. It is noted that Reference G makes provision for 'exempt licensees' with regards the mandatory ID scanning regime inside SNPs. It is therefore recommended that liaison with industry take place to identify a foolproof categorisation system for enabling such businesses to self-identify, and that such businesses be exempt from the proposed SNP trading conditions as they apply to ID scanning. Our initial thought is that an accommodation room threshold be applied to such exemption, with a numeric figure of rooms (more than 10?) being specified to access exemption, subject to application to and approval of the regulator.

Recommendations: The following recommendations are made:

- It is recommended that an exemption from the mandatory SNP provisions, in respect of scanning and security staff, be made for licensed businesses that might be considered genuine accommodation businesses but which are located inside the final SNP boundaries; and
- It is recommended that liaison take place to identify a suitable categorisation system for enabling such accommodation businesses to self-identify, and that such categorisation be based on an accommodation room threshold with a numeric figure of rooms being specified to access exemption.

Draft Section 142ZZB – Providing a safe environment and preserving amenity - the proposed Section of Reference G is well meaning but contains serious and unintended consequences for licensees and others. In particular, the reference to the obligation of the licensee to maintain a safe environment "*in and around the relevant premises*" is vexatious, a long-standing bone of contention between the regulator and licensees, and contains heavy and insoluble legal implications. Under the law, a licensee is responsible for maintaining a safe environment within the boundaries of a licensed premises – this is fair and reasonable. However, to include the above re-definition of 'in and around' the licensed premises is extremely problematic and not achievable unless the term 'around' is subject to widespread consultation, legal advice, and careful definition.

One practical limitation with the proposed definition is insurance application. Currently, coverage of liability insurance for employees of a licensed premises is limited to work undertaken on the licensed business. This means that if a venue's staff member, including security staff, go to the aid of a person in the street or otherwise away from the licensed premises, then that employee is not covered by the venue's liability insurance. So, for example, a security officer who left his post to go to the aid of a person crossing the road and was himself hit by a car and injured would not be covered by the venue's liability insurance. This is just one example of how the proposed policy would create a legal, litigation, insurance and practical nightmare for licensees and business owners.

Recommendation: The following recommendation is made:

- It is recommended that the draft Section 142ZZB be removed from Reference G unless and until such time as the definition of 'around' is clarified, and subject to close legal advice and consultation with industry.

OTHER MEASURES AND MATTERS FOR CONSIDERATION BY THE COMMITTEE

The numbers game in the Major Entertainment Precincts – it must be understood that the existence of and nature of the current declared major entertainment precincts are the direct result of deliberate public policy decisions over the years, just as the *Safe Night Precincts* will be the outcome of the current strategy. As a society, we have consciously decided to establish and resource precincts where high numbers of licensed and associated businesses are located and which, by design, attract a high volume of patronage and night-time foot traffic. In the case of the larger precincts such as Fortitude Valley and Surfers

Paradise, these night-time crowds can number up to 20,000 (mainly young) people on a weekend night. We have deliberately gone down this path as a means of concentrating relatively scarce resources such as police, medical and counsellor support, and in order to mitigate against the option of large numbers of suburban parties in residential areas, the obvious consequence were entertainment precincts not to exist. We must therefore recognise that these larger numbers of patrons will bring with them a statistically rational but nonetheless larger number of issues to deal with. Why is it that a 'rave party' of 15,000 young people is praised if there were "only 10 drug incidents and four arrests", but a similar level of incidents in a night entertainment precinct is somehow classed as unacceptable anti-social behaviour. Whilst there is no excuse for poor behaviour at any time, it is simply a fact that in today's society there will be incidents of drug use, egotistical behaviour and anti-social and criminal activity whenever there is a gathering of large numbers of young people.

This means, therefore, that we should consider moving away from an enforcement system which is based on the raw Q-Prime data and move instead to a basis of assessment and engagement which takes into account the nature of the precinct challenge, the procedural and preventative measures in place at the

venue, and the attitude of the venue and the wider precinct mechanisms to public order and control. A principal reason for the strong success of the Fortitude Valley *Drink Safe Precinct* trial is the close level of cooperation, teamwork, collective ownership and pride in achievement exhibited by all stakeholders who are party to the DSP/Accord processes: the licensed traders, the Police Service, the NGOs, the QAS, contractor and venue security staff and transport supervisors and operators. This type of collective commitment and engagement will also be important in bringing about progress and success for the *Safe Night Out* Strategy, reinforcing the need to take the learnings from the DSP experience into the planning processes for the SNPs.

Recommendation: The following recommendation is made:

- It is recommended that consideration be given to moving away from an enforcement and intervention system which is based on the raw Q-Prime data and move instead to a basis of assessment and engagement which takes into account the nature of the precinct challenge, the volume of patron traffic at the business, the procedural and preventative measures in place at the venue, and the attitude of the venue and the wider precinct mechanisms to public order and control.

In summary

Much has been done over the last 20 years to bring about a more responsible service culture amongst Queensland's licensed businesses. For example, in the last 10 years there have been at least four major reviews or inquiries which, collectively, have imposed more than 100 additional and specific compliance or regulatory measures on mainstream licensed businesses. These include mandatory and universal RSA, annual licence and risk-based fees totaling around \$20 million annually, specified ratios of security staff and CCTV (Brisbane only), a State-wide 3.00 am lockout, a ban on general licensed trading before 10.00 am (previously 7.00 am with low risk), mandatory free water supply, mandatory Approved Manager and RMLV regime, advent of the *Risk Assessed Management Plan* for new liquor licences and change of licence conditions, advertising and promotion restrictions, a voluntary *Code of Practice for the Sale, Supply and Promotion of Liquor*, imposition of 'high risk' legislation enabling a business to be officially branded as 'high risk', voluntary transition to safety glass, an exponential growth in liquor accord membership and acceptance, changes to the *Liquor Act* prohibiting certain classes of people entering licensed premises, and the imposition of a Moratorium on certain trading hours applications. The end result of these and other, industry-initiated, measures is a steady improvement in responsible practice and patron care measures to the point that, in most areas of trade, including the night economy, it is a demonstrably safer environment inside a licensed premises than it is outside in public spaces in major towns and cities.

However, this steady and ongoing improvement on the supply side, has not been accompanied by a commensurate improvement on the consumption side of the trade. Indeed, it is arguable that society as a whole, and certainly the young male demographic which is so prominent in risk-based, violent and anti-social

incidents, has actually regressed over this same time frame to the point where 'improving the culture' almost implies a requirement to improve the attitude, behaviour and response to authority of individual consumers, rather than the licensed industry. It is certainly the view of the Queensland hotel industry that the rights, obligations and accountabilities of the licensed trade (supply side) are currently well out of balance with the rights, obligations and accountabilities on consumers (consumption side). It begs the question that, if alcohol is the cause of all these problems, why is it that the level of problems has not declined in line with the 20% reduction in per capita alcohol consumption since 1986 ?

Refreshingly, in developing and promoting the *Safe Night Out Strategy* the Queensland Government has resisted the temptation to simply apply more and more compliance measures for every licensed business across Queensland. It has consulted widely to derive a sensible, evolutionary and realistic series of targeted measures which should not only build effectively on the good work done in the past, but also strengthen our responsible practice framework around alcohol and associated licensing policy.

In Australia, more than 70% of alcoholic beverages by volume are consumed in other than a licensed venue. It therefore stands to reason that education and solutions towards a more responsible drinking culture must embrace all of the population, and consider all areas where consumption, mis-use and anti-social behaviour can occur.

The *Safe Night Out Strategy* represents another piece in the jigsaw of best practice in Queensland, and should help to address the current imbalance in accountability between the licensed trade and its consumers. Finally, with the exception of the proposed 'secret shopper' RSA compliance measures and timing proposals for scanning, the QHA and its members are pleased to support the measures outlined in the *Strategy* and in the Queensland *Safe Night Out Legislation Amendment Bill 2014*. The hotel industry welcomes both the level of consultation that has accompanied the development of the *Safe Night Out Strategy*, and the targeted nature of the proposed regulatory and other interventions, and looks forward to contributing to their successful implementation.

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