

# THE PULLOS GROUP



17 December 2015

The Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000



Dear Madam/Sir

## Tackling Alcohol-fuelled Violence Legislation Amendment Bill 2015

I refer to the Committee's inquiry into the above, and note that written submissions have been invited addressing the proposals contained in the bill. This letter contains my submission for the consideration of the Committee.

By way of introduction, I am a hotelier and have been active in the liquor industry for at least 40 years, and I come from a family that also operated a number of hotels over a considerable period. At present, I own and operate the following businesses:

- The Royal George Hotel, Fortitude Valley (including Rics Café and Bar)
- Brunswick and Ann/Viva la Vodka, Fortitude Valley
- Samford Valley Hotel, Samford
- Woodford Village Hotel Motel

Both the Samford and Woodford Hotels are former winners of the prestigious "Best Redeveloped Hotel" award in the annual QHA Awards for Excellence.

We were also consistent winners in the Safer Venues Awards while they operated including being awarded the "Excellence Award" in 2008 and 2009, which was the premier award in the Safer Venues project.

I was also part of the core group of operators who established the Valley Alcohol Management Partnership ("VAMP") in late 2001/early 2002 and was later the Chair of the Valley Liquor Accord from 2004 to 2009.

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The Royal George Hotel + Ric's Bar & Café

BELUSHI'S CBD PTY LTD atf THE PULLOS TRUST ACN 010 228 083 ABN 68 469 817 227  
Brunswick and Ann + Viva la Vodka + Samford Valley Hotel + Woodford Village Hotel

As you will note, I have vested interests in hospitality businesses which are both city-based and suburban or perhaps more accurately peri urban. Moreover, I have businesses which operate until 5am, which provide gaming facilities, live musical entertainment, food, accommodation, and which cater for functions and events. Accordingly, I am in a position to comment on most aspects of the regulation of the liquor and hospitality industry based on lengthy and direct experience.

In particular, a number of the matters to which the bill is directed – namely changes to trading hours, the expanding regulation of the use of car parks for liquor consumption, the regulation of the service of certain types of drinks after midnight and the expansion of the powers of compliance officers – are integral components of my businesses, and as such I am in an authoritative position to inform the Committee about the impacts of the changes.

Other matters, such as the opportunities which are proposed to be offered to producers of craft beer are of less direct relevance. However, I have included my thoughts on these matters as well.

Lastly, I have provide some commentary on matters which are of grave importance to the industry and community, but which have not been addressed in the bill at all. I refer to the problems associated with pre-loading and the straightforward and sensible means by which these could be addressed.

As a general statement, the Government is to be commended on its willingness to find ways to combat the problems associated with violence and excessive liquor consumption.

#### TRADING HOURS/LOCKOUTS

My strong preference is for there to be no change to the trading hours framework at all. I'm reliably informed by Police and others that there is a downward trend in relevant crime statistics which shows that the actions that have been taken to address liquor-related issues and violence over the last few years are bearing fruit.

In Fortitude Valley in particular, it is straightforward to chart the evolution of an active liquor accord, known as the Valley Alcohol Management Partnership (or VAMP) between about 2001 and 2004, and after that as the Valley Liquor Accord, formed in 2004, through the Drink Safe Precinct trial and implementation which continued under the name Safe Night Precinct under the former Government and into the current Government's term. The SNP in fact encompasses a swathe of initiatives, delivered within a local, co-operative partnership involving all stakeholders. It is a strategy that has evident support from both sides of politics, and has delivered and will continue to deliver good results for all concerned.

In the circumstances, it is difficult to discern a case for further change, as perhaps existed in other jurisdictions and areas such as central Sydney. In Queensland, I understand that our rates of relevant crime are well below other

parts of Australia and continue to decline. Accordingly, leaving matters as they are at present is a well-justified alternative to the measures proposed in the bill.

This includes the retention of the present lock out at 3am. In my view the lock out performs a valuable function of assisting transport providers to move the crowds from the Fortitude Valley area by dividing up or staggering the departure of patrons. In my experience it takes about an hour for taxis to clear the crowd from the area and be back for the next wave. I believe there is a danger that transport will not be able to adequately cope with tipping everyone onto the streets at once.

If trading hours must change, then an initial reduction of 1 hour would be a more than adequate step, with the 3am lock out retained. The effect of the initial reduction could then be examined before any further adjustments were contemplated.

Although it does not appear to be a specific objective of the bill, I believe that a differential of 2 hours between the closing times of suburban hotels and premises located within a Safe Night Precinct is a worthwhile outcome. A precinct-based approach allows for resources to be concentrated more efficiently. This would also help to maintain the vibrancy of the precinct without risking wholesale damage economically. I personally have no problem with suburban hotels and clubs remaining open with gaming either without liquor sales, or with liquor sales restricted to gaming patrons. These patrons are not the type who would be attending entertainment precincts. However, it is desirable to maintain a differential in entertainment and bar areas between suburban and city-based premises.

#### CAR PARKS

At least anecdotally the prohibition on the consumption of liquor in a car park area of a licensed premises without approval brought in by Section 153A of the Liquor Act in its current form is referred to as the "Normanby amendment" as it appeared in the Act following well-publicized action by OLGR involving the Normanby Hotel, and the subsequent appeal proceedings. Ironically, it was an outcome of the appeal proceedings that the licence for the hotel was amended to in effect grant an approval for the use of the car park area, subject to various restrictions. I strongly suspect that were it not for these events the use of car parks either occasionally or regularly would have been comfortably administered under the existing provisions of the Act.

The main issue created by the ramping up of the provisions regarding dealing with this activity is uncertainty, and the root of this is the proposed definition of "car park", which states:

an area with a surface designed or adapted for the parking of vehicles, whether or not the area is being used for that purpose

The concerns are fairly obvious. What characterises a surface so that it would be regarded as having been designed for the parking of vehicles? Vehicles are of course capable of parking on all manner of surfaces – concrete, bitumen, gravel, compressed blue metal, paving, ceramic tiles, aggregate, dirt, sand, mud, grass and so on.

The “whether or not the area is being used for that purpose” element adds to the difficulty. For example, a licensee might have a level yard at the back of the hotel, which is regularly used for customers to park their cars, but with a grass surface which potentially would not be regarded as being a relevant surface, and therefore despite obviously being a car park it would be outside the definition.

By the same token, an area with a concrete surface which is used primarily as a beer garden, but which is occasionally used for staff parking or delivery vehicles would possibly be within the definition despite obviously not being a car park.

A simple solution would be to amend the definition to exclude an area which is not ever available for the purposes of patron or general public parking. This would remove the uncertainty around places like driveways, loading docks, staff only areas, service areas and so on.

#### RAPID INTOXICATION DRINKS

The Government’s intention to attempt to regulate the consumption of certain drinks after midnight is misconceived, unnecessary and unworkable in the form set out in the bill.

For example, the definition in Clause 49 requires that in order to be a rapid intoxication drink it needs to be of a type which encourages rapid intoxication because it, inter alia, is designed to be consumed rapidly. If it is considered that this language is intended to refer to a drink commonly known as a “shot”, usually served in a small glass holding just 30ml or less then its consumption is no more rapidly achieved than by someone taking a mouthful of their beer.

The definition goes on to state that in the alternative the drink will be a rapid intoxication drink if it contains a high percentage of alcohol. Again the use of relative terms like “high percentage” is subjective and unhelpful. Vagueness of this kind will invite disputes and ultimately legal challenges by those affected, including the producers and suppliers of impacted liquor products.

If any further regulation of these activities is warranted, and in my view the existing responsible service obligations placed on licensees are more than adequate to deal with any licensee who engages in inappropriate practices, then the rules need to be clearly stated, and not open to interpretation. For example, a cocktail list which includes shooters and shots should not be ruled out provided the content of the drink does not exceed a particular volume of alcohol. In one of my venues, I offer two wine-based liqueur products served as a traditional shot. One of these is 21.5% alcohol, the other is just 16.5%. This is compared to at least 40% for many whiskeys, rums and vodkas.

As regards the Clauses dealing with exemptions from the proposed ban, these appear entirely unworkable, and will provide a plethora of challenges and anomalies for both industry and Government. The requirements for an exemption set out in the proposed Section 155AK are cumulative, and include, for example, a requirement that the applying venue be relevantly unique in its locality. This would seem an impossibility in any inner city locality with a concentration of licensed premises. The proposed requirement is that:

the type and quality of liquor sold, and the way in which liquor is served at the premises differs from other types and qualities of liquor sold, and ways in which liquor is served, in the locality

In other words, if two or more premises in the locality serve the same type and quality of liquor then none of those premises will be eligible for an exemption.

Once again, there does not appear to be any real evidence that the current requirements for responsible service of alcohol are not working, or are not sufficiently enforceable for these kinds of changes to be required. However, if something of this kind must be brought in, then it needs to be thoroughly examined in consultation with affected members of the industry. The approach set out in the bill is plainly unworkable and appears to misunderstand the practical, operational realities of licensed premises.

#### CRAFT BEER

Although I have no specific objection to fostering the growth of the craft beer sector of the industry, and indeed support it strongly within my own businesses, I am concerned that the proposed amendments will unnecessarily and unreasonably change the current balance in the industry.

That there are a growing number of small breweries around the State is a matter of record. The licensing arrangements for these are already quite generous in terms of the ability to retail as well as wholesale beer. This is as a consequence of legislative provisions which date back to well before the passage of the current 1992 Act. However, the retailing opportunities for these producers are, in the current, internet-driven world, vastly more extensive than existed back in the 70s and 80s, so to extend the promotional opportunities for only those operators in the way proposed is taking matters too far. It would, for example, be a dramatic change for hotel licensees to be permitted to set up promotional tasting stands at markets and to sell take away liquor to those customers. And yet this is the opportunity being suggested for craft brewers. Accordingly, in my view the status quo should remain, and the Committee should recommend that the proposed system of craft beer producer permits not proceed.

In the alternative, if it is thought to be necessary to improve craft beer producers' promotional opportunities then the authority of the permit should be limited to the supply of free samples, with any purchase of product undertaken by way of an order placed after the event.

## “DOCUMENT”

Clause 57 of the bill proposes to expand what are already quite extraordinary powers held by compliance officers, or “investigators” as they are more correctly known. The proposed sections are misleading to a lay person, in that although they refer to the “power to require production of documents” the definition of the word “document” is lifted from the *Evidence Act 1977* which is in the following terms:

**document** includes, in addition to a document in writing—

- (a) any part of a document in writing or of any other document as defined herein; and
- (b) any book, map, plan, graph or drawing; and
- (c) any photograph; and
- (d) any label, marking or other writing which identifies or describes anything of which it forms part, or to which it is attached by any means whatever; and
- (e) any disc, tape, soundtrack or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (f) any film, negative, tape or other device in which 1 or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (g) any other record of information whatever.

In other words, the requisitioning power will be expanded to include, in effect, any information whatsoever. At present, unless the information is of a specific kind or character – that is, generally information required to be created and maintained by the Liquor Act – then an investigator will require either the consent of the licensee or a warrant in order to compel its production. This is an important check and balance, without which too much power is conferred on these officers. History has shown us that too much power can lead to corruption.

Once again, it is very difficult to perceive any present issue within the industry that would require a change of this kind. As noted above, investigators have very extensive powers already, and with a warrant can access any information relevant to exercise of their functions.

## OTHER MATTERS

### *Banning/ID Scanning*

Although the bill does not deal with these matters, I will take this opportunity to indicate my continuing support for strong banning powers coupled with mandatory ID scanning on Friday and Saturday nights after 10.00 pm for all venues operating after midnight in an entertainment precinct. For this to work effectively all scanners must be linked and a protocol must be in place whereby if a ban is placed on an individual from one venue, then the ban will apply to all

venues in the precinct automatically for a period of time to be determined. [say 6 months]. This will very quickly rid the precinct of would-be trouble makers and further create the required "perception of safety" for our area. This system does not need to apply on the less popular nights due to economic factors but could be expanded to include additional nights if deemed necessary.

I have voluntarily implemented ID scanning at my Valley venues. However, making the use of the technology mandatory and implementing the linking and banning protocol would dramatically enhance the effectiveness of this currently available resource.

I firmly believe this measure alone would dramatically assist in discouraging anti-social behaviour and act as a valuable tool for the police to identify and deal with offenders.

#### *Pre-loading – retail outlet sales (off-premises)*

The absence of any express dealing with this issue is a huge hole in the discussion. Pre-loading (by which is meant the consumption of liquor by patrons prior to them attending licensed venues) is a major driver and cause of liquor-related problems, and successive governments have refused to address it. For example, if there is an injury or serious incident then the immediate reaction is to reduce or curtail on-premises trading. No attempt is made to reconcile the issue of ridiculously cheap take away liquor sold by the supermarket chains, who take no responsibility.

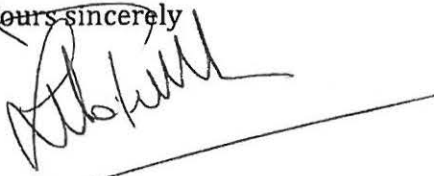
Price-based advertising for liquor products consumed on-premises is effectively banned, as is the advertising of any promotion that might suggest to a patron that liquor would be available at a discount price. And yet price-based marketing is, in effect, the only marketing undertaken by the large, off-premises traders. There are clear correlations between price increases and reduced consumption, and although price control appears to be a legal impossibility, it is high time government at least looked at measures such as advertising restrictions to address the vast price differential between on and off-premises businesses.

#### *Drugs*

Lastly, it is important that the issue of the impact of illicit drug use among patrons of licensed premises not be ignored. It is simply lazy for the authorities and law-makers to assume that liquor is at the root of violent behaviour and frame action only based on liquor consumption. I can say from long, personal, first hand experience that in more recent times a very substantial proportion of misbehaviour is associated with the use of drugs and not simply alcohol. Any strategy directed at resolving issues of violent behaviour in our society cannot ignore the key role played by this illegal activity. To the extent it is possible for the Committee to do so, its recommendations should flag drug use as an ongoing and relevant element of any discussion dealing with violent and anti-social behaviour.

Thank you for the opportunity to contribute to the Committee's deliberations. If I can be of any further assistance, or if any matter requires clarification please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Les Pullos', written over a horizontal line.

**Les Pullos**

**DIRECTOR**

Royal George Hotel

Brunswick & Ann / Viva La Vodka

Samford Valley Hotel - Winner - Best Redeveloped Hotel up to \$1 Million Dollars - QHA Awards for Excellence 2004

Woodford Village Hotel/Motel - Finalist - Best Renovated Hotel over \$2 million Dollars - QHA Awards of Excellence 2009