

**Submission to:** The Liquor Policy Team, Liquor & Gaming NSW

**Submission Regarding:** Exploring liquor licensing reform options

**Submitted by:** Students for Sensible Drug Policy Australia

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## Exploring liquor licensing reform options

Dear Liquor Policy Team,

Students for Sensible Drug Policy (SSDP) Australia welcomes the decision by Liquor & Gaming NSW to explore meaningful options for liquor licensing reform. We (SSDP Australia) would like to highlight some of the impacts of the *Liquor Act 2007* on patron welfare and wellbeing,<sup>1</sup> namely regarding the need to revise requirements to evict intoxicated patrons and those suspected of possessing or using prohibited drugs, and the need to facilitate access to peer-based harm reduction services at festivals and events.

SSDP Australia is a national, volunteer-based, community organisation formed in 2016. We empower, coordinate, and represent a grassroots network of students and young people to advocate for drug law reform. With a footprint that spans the globe, we empower the largest demographic of people who use drugs in society to make youth voices heard in drug policy debates.

Students and young people are the most likely age group to use illicit drugs, and drink greater amounts of alcohol per session.<sup>2</sup> These groups continue to be highly represented among patrons of licensed venues, and music festivals and events, and continue to be affected by the use of and poor policy around alcohol and other drugs. Students and young people are also the most likely to want drug policy reform, yet they are the least likely to be involved in decision-making around drug-related policies and programs.

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<sup>1</sup> *Liquor Act 2007* No 90.

<sup>2</sup> Australian Institute of Health and Welfare (AIHW) (2020) *National Drug Strategy Household Survey 2019*. Drug Statistics series no. 32. PHE 270. Canberra AIHW.

As an under-resourced organisation, and in recognition of the lived and living expertise of peer organisations, SSDP Australia has opted to fully endorse and support the submission from The NSW Users and Aids Association (NUAA) and DanceWize NSW. Specifically, we refer to their discussion on the requirement in the *Liquor Act 2007* to evict patrons:

*“Under Division 1 Section 73 and 74 of the Liquor Act, the licensee must ensure that intoxicated persons and those suspected of possessing or using prohibited drugs are ejected from the licensed premises or else the licensee, employee or agents are at risk of penalties. We recognise the intention of these sections to reduce intoxication and the harms associated with the use of alcohol and other drugs. However, the legislation in its current form has increased the risks of harm associated with alcohol and other drugs and has made the risk of infringement to the licensee, employee and their agents supersede patron welfare.”*

NUAA and DWNSW also highlight that Section 73 and 74 of the *Liquor Act 2007* around patron eviction result in:

- Barriers to help seeking, since patrons who are evicted, or fear that they will be evicted after receiving medical or peer-based intervention, are deterred from seeking support;
- Further damage to relationships between patrons and police and/or security, and risk that patrons will not seek support in instances of sexual harassment or assault, or after contact with troublesome patrons, since patrons fear that if they engage with security or police for any reason that they or their friends are at risk of eviction; and
- Practices of eviction which occur at events despite peer and/or medical services advocating that a patron would benefit from ongoing supervision and support in the peer-based harm reduction service.

As an organisation, SSDP Australia understands the complexities associated with alcohol and other drug use and policy matters, and is informed by the evidence of what works and does not work, and the expertise of the communities with lived and living experience of AOD use, nightlife, and the impacts of policy. While extensive research has documented and mapped the effects of policy interventions in NSW nightlife throughout recent decades, there is an absolute absence of evidence that speaks to the efficacy of policies that require intoxicated patrons to be evicted from licensed spaces. SSDP Australia strongly advocates that patrons who are suspected of possessing or using prohibited drugs should not face immediate eviction and removal from the vicinity of a licensed area if that patron is deemed at risk of harm. Wherever possible, regulatory actors should refer at-risk patrons to a harm reduction service. This speaks to the need to both reduce barriers to accessing available harm reduction services (e.g., at festivals), and to invest in accessible harm reduction services in nightlife spaces. SSDP Australia recognises the important contribution of Stay Kind (formerly the Thomas Kelly Foundation) and the Take Kare Safe Space program that provided care spaces for Sydney nightlife patrons.<sup>3</sup> We recommend that Liquor & Gaming NSW consider further

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<sup>3</sup> Doran CM, Wadds P, Shakeshaft A & Tran DA (2021) Impact and Return on Investment of the Take Kare Safe Space Program—A Harm Reduction Strategy Implemented in Sydney, Australia. *International journal of environmental research and public health* 18(22): 12111.

investment in NEP-based harm reduction spaces to support the welfare and wellbeing of all licensed venue patrons and local communities.

Moreover, while recent policy such as the *Guidelines for Music Festival Event Organisers* has laid out requirements for the integration of harm reduction at music festivals and events,<sup>4</sup> incongruencies in the *Liquor Act 2007* continue to create barriers to promoting patron wellbeing. SSDP Australia believes that peer-based harm reduction is essential for reducing the harms experienced by patrons when attending music festivals and events, related to both alcohol and other drug use, and violence and assault. As commented by NUAA and DWNSW, when intoxicated patrons are evicted, harm reduction services can no longer supervise or provide care, and these patrons face greater risk of illness, injury, overdose, sexual harassment, sexual assault, falls, injuries, and a myriad of other harms. These risks are increased when there is a lack of available and safe transport options, and cellular reception, which are common when festivals are held in rural/regional or remote locations and in large-scale events in metropolitan areas. This increased risk to evicted patrons is supported by anecdotal evidence from SSDP Australia's grassroots community with lived experience of eviction while intoxicated. As licensees are at risk of penalties if they do not evict an intoxicated patron from a licensed space, current policy is likely to result in an increased risk of harm.

While the Liquor & Gaming *Intoxication guidelines* recognise that patrons who are intoxicated can be confused, lose inhibition, and lack coordination, these very signs of intoxication increase the risk of the aforementioned harms. Furthermore, there is an absence of understanding of the effects of prohibited drugs in both the *Intoxication guidelines* and in responsible service of alcohol (RSA) training.<sup>5</sup> While the *Liquor Amendment (Intoxication) Bill 2019* saw the first meaningful expansion of the definition of intoxication to consider the effects of prohibited drugs,<sup>6</sup> there remains a lack of consideration in RSA training for identifying and managing intoxication and effects of other drugs.<sup>7</sup> RSA materials briefly outline that alcohol used in conjunction with other drugs can produce certain risky effects, but do not specify how observed intoxication may differ across different categories or combinations of drugs. RSA training also does not involve any further education around identifying whether a patron is affected by drugs, and therefore whether observable effects suggest that a patron is high and/or at risk of harm.

The *Intoxication guidelines* only relate to alcohol intoxication, indicating a gap between policy development and efforts to translate policy to practice. Accordingly, the capacity for venue staff and other actors responsible for reducing harms associated with patron intoxication within licensed spaces is likely informed almost completely by the lived experience and other

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<sup>4</sup> NSW Ministry of Health (2019) *Guidelines for Music Festival Event Organisers: Music Festival Harm Reduction*. Available at: <https://www.health.nsw.gov.au/aod/Publications/music-festival-guidelines.pdf>

<sup>5</sup> Liquor & Gaming NSW (n.d.) *Intoxication guidelines*. GL4003. NSW Government.

<sup>6</sup> *Liquor Amendment Intoxication Bill 2019*. Parliament of New South Wales.

<sup>7</sup> Liquor & Gaming NSW (2022) *NSW Responsible Service of Alcohol. Course handbook*. State of New South Wales. Available at: <https://www.liquorandgaming.nsw.gov.au/documents/collateral/nsw-rsa-course-handbook.pdf>

expertise acquired by venue staff outside of RSA training. While RSA technically relates to the administration or restriction of alcohol access, capacity to judge whether a patron should be served alcohol is limited if the server cannot assess whether a patron is affected by drugs. Since venue staff and security are also responsible for removing patrons from venues or other licensed spaces, licensees may not be able to effectively fulfil the requirements in the *Liquor Act 2007* to evict patrons without meaningful training on drug intoxication and related harms. For policies related to eviction to effectively reduce harms, regulatory actors must be well-equipped to make informed decisions around patron welfare both prior to and after eviction.

SSDP Australia supports and endorses the following recommendations made in the NUAA and DWNSW submission, including recommending that:

- The currently disallowed *Liquor Amendment (Music Festivals) Regulation 2019*, 61ZA Exemption for intoxicated conduct be reintroduced, which stated that:
  - For the purposes of section 159 (4) of the Act, a music festival licensee is exempt from section 73 (1) (a) and 74 of the Act if an intoxicated person:*
    - (a) is on licensed premises and the licensee proves that the licensee, or the licensee's employees or agents, caused the intoxicated person to move to a harm reduction area, or*
    - (b) is in a harm reduction area.*
- A 'harm reduction area' be defined as the on-site medical service space, and the supervised care space provided by peer-based harm reduction services, to ensure that licensees will not be required to evict the patron and that intoxicated patrons or those suspected to have used prohibited drugs are able to receive support.
- The security, police, and other agents responsible for enforcing Section 73 and 74 are not located at the entry of the medical and peer-based services unless formally requested, and that this distance from a harm reduction area be defined as a minimum of 10 metres away.
- The reasonable excuses a person has for remaining within a licensed premise during a non-voluntary exclusion, as indicated in Section 77, be expanded to state:
  - The person has a reasonable excuse for remaining, or re-entering the vicinity of the licensed premise if a health professional has advised that there is a reasonable fear for his or her safety if he or she does not remain in, or re-enter the vicinity of the premises*
- Peer-based harm reduction services and on-site medical at events are permitted to provide test strips and self-administered urine kits to patrons who are concerned about drink spiking.

In accordance with the above discussion, SSDP Australia additionally recommends that:

- Licensees, and the licensee's employees or agents are required to undertake appropriate training to identify the effects of prohibited substances and therefore to effectively judge intoxication and if a patron is at risk of harm.
- Appropriate training on prohibited substances should be co-designed by people with lived and living experience of the use of prohibited substances.

- Licensees, and the licensee's employees or agents should always refer patrons at risk of harm to an available harm reduction area.
- NEP-based harm reduction spaces like Take Kare Safe Space are funded and supported by the NSW Government to support the welfare and wellbeing of all licensed venue patrons and local communities.
- The voices of students and young people are elevated in policy reform through direct community consultation and/or the establishment of a youth advisory panel.

Students for Sensible Drug Policy Australia thanks Liquor & Gaming NSW for the opportunity to make this submission and would also welcome the chance to provide further evidence on these critical policy issues.

Yours Sincerely,



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