



Keeping Canberra Open
Positive policy for a vibrant late-night economy in Canberra
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Table of Contents

Positive policy for liquor licensing reform	3
1. Risk-based licensing is working – let’s improve it.....	3
2. A code of practice for all licensed venues	3
3. A new collaboration between entertainment precinct Police and venues security teams.....	3
4. Working to change negative behavior – the Cardiff Model	3
5. Addressing pre-loading and underage drinking.....	3
6. A real plan for Canberra’s night-time economy	4
Let’s talk statistics—what the evidence shows	4
Discussion of policy proposals and evidence	5
<i>Building on Liquor Reform: White Paper</i>	5
Licence fees.....	5
Improving Risk-based licensing (RBL).....	7
ACIL Allen Review.....	7
FARE Study	7
Chapel Street Study – venue density	8
Working to change negative behavior—the Cardiff model	8
Pre-loading and underage drinking.....	9
A real plan for the night-time economy	9
Impacts on live music in the Sydney CBD plan of management ‘lockout’ zone 2015.....	9
Cool Little Capital	9
Experiences from places with a 24/7 economy	10
References	11

Positive policy for liquor licensing reform

Don't let the behavior of a few idiots ruin Canberra's culture

The *Keep Canberra Open* campaign has shown there is huge public interest for a broader conversation about how we want our city to develop. As we know, the ACT Government has recently proposed to close liquor trading at 3am or massively raise liquor license fees for late trading between 3am-5am. Whilst the Government has now dropped this, we wish to explore what positive changes can be made to legislation to further grow a safe and vibrant late night economy.

The lesson from Sydney is clear: restrictive measures would be disastrous for the hospitality and music industries and therefore to tourism and the ACT economy as a whole. The ACT Government's own review of the reforms to liquor regulation in 2010 recommended that any further changes need to be based on ongoing collaboration with the industry and improved data collection.¹ That's what we're asking for.

Everybody wants a safe city. There are much better ways to tackle excessive drinking than by smothering our late-night culture—we need to work together to target and counsel the troublemakers and promote safe drinking, as well as diversify the late night economy with music and culture. Shutting down means that the attitudes that cause excessive drinking and violence are not addressed.

Don't shut down our late-night industries just as Canberra's culture is gaining positive attention in national and international media. We ask that proposals 1 and 7 of the White Paper be set aside and never revisited, and that we start an ongoing conversation about how to make Civic a lively, safe, attractive place late at night.

1. Risk-based licensing is working – let's improve it

- rewards for good practice by venues as well as penalties based on non-compliance
- increase powers for venues to deal with troublesome patrons
- improve venue control of outside areas including line-ups and outdoor smoking
- increased collection and availability of data

2. A code of practice for all licensed venues

- gather best practice and improve consultation with the local late night industry
- improved RSA (responsible service of alcohol) monitoring by venues
- introduction of RSA Marshals
- Improved powers for licencees to refuse entry
- all venues to develop and implement best practice management and risk plans
- share information about troublesome patrons with other venues and police

3. A new collaboration between entertainment precinct Police and venues security teams

- dedicated entertainment precinct Police
- information sharing on troublemakers
- better communication and understanding for venues on Police beat operations
- monthly communication and consultation between Police and entertainment precinct venues

4. Working to change negative behavior – the Cardiff Model

- introduce the successful Cardiff Model—emergency department nurses counsel people treated for excessive drinking and injuries from violence—Wales had a 40% reduction in violence since 2002 using this model
- repeat offender ban for trouble makers from entertainment precincts and all venues
- “user pays” or “time-out” penalties for patrons and heavier penalties for violent behaviour
- more attention to the role played in violent behaviour by illicit drugs

5. Addressing pre-loading and underage drinking

- better regulation of access to cheap takeaway alcohol and online retailers
- addressing secondary supply of alcohol to under-18s

¹ ACIL Allen Review p.vii

6. A real plan for Canberra's night-time economy

- incentives to diversify the late-night economy with music, culture and late-night dining
- better safe transport options including late-night public transport
- create entertainment precincts to manage all environmental impacts
- include a music and arts industry representative on the Liquor Advisory Board
- consider introducing 24-hour licensing to spread peaks and allow them to be better managed

Let's talk statistics—what the evidence shows

Earlier this year, the ACT Government released the *Building on Liquor Reform: White Paper*, following a comprehensive review of the previous reforms to liquor licensing in 2010. The primary sources of data for the White Paper were the 2014 *Two Year Review of ACT Liquor Laws and Licensing Fees* by consultants ACIL Allen, and the 2013 *Risk-Based Licensing and Alcohol-Related Offences in the Australian Capital Territory* commissioned by the Foundation for Alcohol Research and Education (FARE).

Alcohol-related offences in total

The good news is the ACIL Allen Review found that since the introduction of the *Liquor Act (2010)* up till 2012 that in the ACT:

- alcohol-related assaults are down by around 11 per cent;
- alcohol-related non-driving offences (in aggregate) are down 21 per cent; and
- drink driving offences are down by 7 per cent.

Alcohol-related violence

The ACIL Allen review found that there was a proportionate increase in alcohol related incidents in the CBD (Civic) during the same period, peaking between midnight at 6am. This could be due to the increased police presence and improved reporting procedures for paramedics, but expressing it as a proportion doesn't tell the whole story:

- the raw number of incidents in Civic dropped from 319 in 2010 to 258 in 2011 and 279 in 2012.
- the number of alcohol-related violent incidents elsewhere has also dropped, leaving Civic with a greater proportion.²

Alcohol-related incidents

The FARE study shows clearly that 3am-6am is **not** the worst period for the number of alcohol-related incidents in Civic, a fact that has been omitted in the White Paper and other commentary. *It's not late-night trading that is the main cause of the problems.* During 2010–12 compared to 3am-6am:

- the number of incidents was higher from 6pm-9pm and from 9pm-midnight
- the number of incidents was **double** between midnight and 3am.³
- ambulance attendances in Canberra for excessive drinking between 3-6am are **less** than the period from 6-9pm, and **half** that from both 9pm-midnight and midnight-3am.⁴

Pre-drinking

The ACIL Allen review and FARE study found pre-drinking to be a significant factor. Unfortunately, there isn't data any data about pre-drinking in the ACT. A survey of the Chapel Street night club precinct in Melbourne in 2007-08 found that 63% drink before they arrive.⁵ We need policy and regulation to reduce this kind of drinking to lessen the burden on our venues, police and emergency services in Civic.

What the ACIL Allen review didn't recommend

- The review **didn't** recommend restricted trading hours be implemented—it said they should be considered for the CBD (Civic) after greater research and collaboration with the industry.
- The review **didn't** recommend a blanket closing time or one-size fits all license increases—it said the available data doesn't support this approach.⁶

Let's stop blaming the venues and stop risking Canberra's culture by closing at 3am. Instead, let's make work together to minimize risks with alcohol service and put fair responsibility on individuals and their actions.

² ACIL Allen Review p.20

³ FARE Study p.17

⁴ ACIL Allen Review p.41

⁵ Chapel Street Study p.56

⁶ ACIL Allen review p.67

Discussion of policy proposals and evidence

Building on Liquor Reform: White Paper

There is much in the White Paper that is positive, and which is supported by evidence provided in the ACIL Allen review and the FARE study. There are a number of proposals, however, where the evidence shown is too selective to provide a balanced assessment, and includes some assumptions that must be questioned. In particular, the evidence and arguments attached to Proposal 1 and Proposal 7 in the Issues Paper and White Paper have shortcomings. In summary, these are:

Proposal 1

- Ending liquor sales at 3am OR
- Increasing liquor license fees by 300% for trading to 4am, and 500% for trading to 5am.

Proposal 7

- Giving the Commissioner the power to modify occupancy loadings at any time.

The genesis of the Government's proposed approach can be seen in the July 2015 *Issues Paper – Addressing Alcohol-Related Harm*. The Issues Paper essentially limits the policy options on the table to restricting trading hours and increasing license fees, coupled with restrictions on advertising and promotions, with the explicit and sole aim of reducing consumption and thereby alcohol-related incidents. While restricting the sale of alcohol is known to reduce consumption, it is a crude tool that does nothing to address the issue of individual behavior and the culture that supports excessive drinking. While the Sydney lockdown laws may have cut street incidents by 40% they have also shut down 40 clubs, and seen a decrease in patronage of the Sydney CBD by 82%.⁷

The White Paper explicitly tries to link the harms associated with excessive alcohol consumption with availability of alcohol from late night trading. This is not what the Government's own evidence shows. The worst period is actually 12-3am, and 9pm-12am is worse than 3am-6am. Yet there is no suggestion that venues open during earlier hours should be penalised or should contribute to infrastructure, policing or medical costs as the White Paper asserts late-night venues should. Similarly, the proposal to allow the Government to arbitrarily change the occupancy of venues is unfair. While there should be ongoing consideration of outlet density and venue capacity, this should take the form of increased data collection, long-term consultation and planning.

The ACIL Allen review and the FARE study both found that the reforms introduced in 2010 are working, in that the number of alcohol-related incidents in the ACT had dropped significantly between 2010–12. Despite this, the Issues Paper and subsequently the White Paper claim that the level of alcohol-related violence is "persistent". This appears to be based on the finding that the proportion of alcohol-related offences attributed to patrons of venues subject to RBL remains at 5-6% of all such offences committed in the ACT.⁸

Much was also made in the Issues Paper of an increase in young people (under 18) needing ambulance and emergency room treatment for alcohol-related problems, as reported in the ACIL Allen review, and a reported culture of pre-loading. Clearly, these are not the responsibility of licenced venues, yet the Government is proposing to penalise them partly because of this behavior. Actions to specifically address these problems should be the headline measures. The White Paper does propose increasing licence fees for bottle shops, where the vast majority of alcohol in the ACT is sold.

Licence fees

The Government's proposal to increase licence fees for late night trading by 300–500% is unrealistic and is not, as the White Paper claims, genuinely consistent with the existing RBL approach. Licence fees in other places reflect a "user-pays" component, reflecting to costs of administration, venue capacity and hours of trading as well as penalties for infringements and incentives for best practice. Costs of policing and healthcare for the harms from excessive alcohol consumption should be spread across the entire industry, rather than targeting only late-night venues.

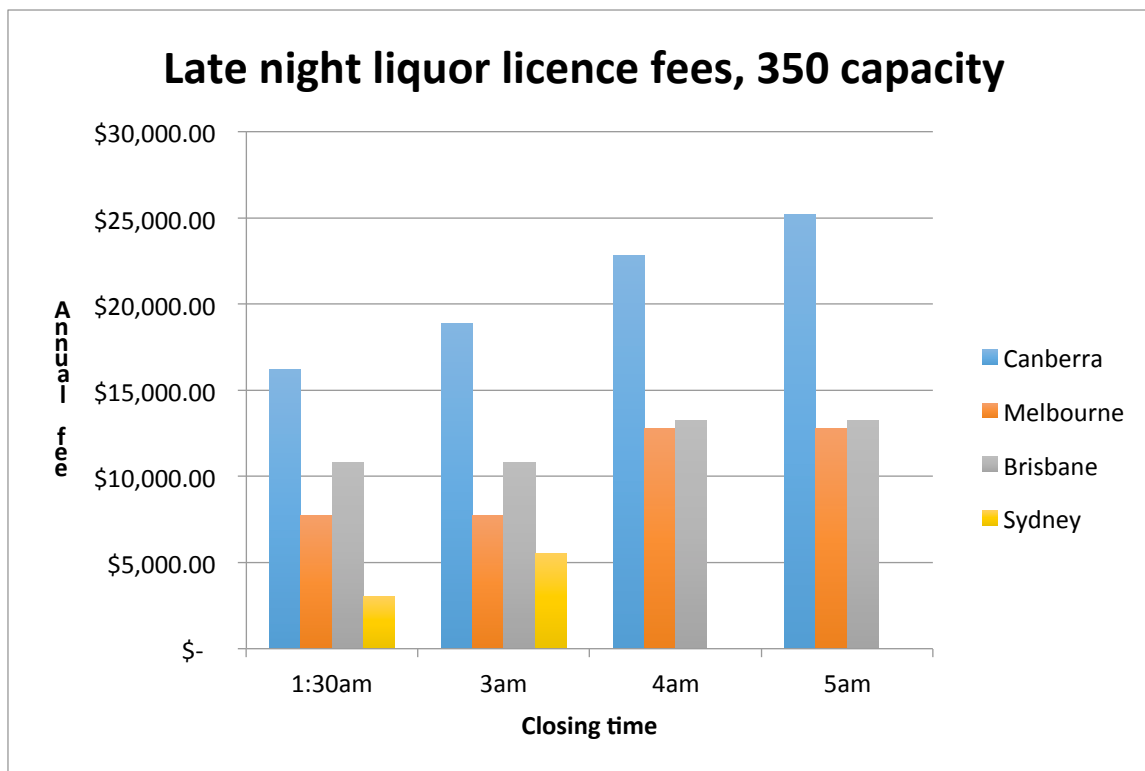
A blanket late night licence fee increase of the magnitude proposed would undoubtedly cause some venues to become unviable and close down, especially small venues that provide much needed diversity. Once these close,

⁷ The Guardian, 21 March 2016

⁸ FARE study p.19

patronage would decrease and even the largest and most profitable venues would struggle. The effect would ultimately be the same as a 3am close—the destruction of the late night economy. The suggestion in the White Paper that venues could stay open as long as they do not serve alcohol is impractical, as has been shown by the experience in Sydney.

Licence fees in the ACT already substantially more than anywhere else in Australia. It is unrealistic to expect that the proposed fee increases will lead to any improvement in the capacity of venues to improve RSA practices. Strengthening of RSA monitoring and an industry code of practice would be vastly preferable, leading to venues investing more in achieving best practice in eliminating problem drinking.



For 350 capacity venue	Base fee	Late trading hours fee	Compliance penalties	Occupancy loading	TOTAL (not counting penalties)
Canberra (current)	n/a	Yes	n/a	Yes – highest level is >350 at 4am	\$22,786 (4am) \$25,184 (5am)
Canberra (proposed)	n/a	300% (4am) 300-500% (5am)	n/a	Likely	\$68,358 (4am) \$125,920 (5am)
Melbourne	\$948.10	\$3792.10 (after 1:30am) \$7584.10 (after 3:00am)	\$3792.10 (1/2) \$7584.10 (3+) # infringements past 12 months	Yes	\$7710.30 (3am) \$12,798.30 (5am)
Brisbane	\$3507	\$7310 (12-3am) \$9740 (3-5am)	\$6300 (if paid without contest) \$12,600 (if contested and proved) \$25,190 (serious offence)	No	\$10,817 (3am) \$13,247 (5am)
Sydney	\$510	\$2500 (1.30am) \$5000 (after 1.30am)	No	No	\$3010 (1.30am) \$5510 (3am)
Wellington NZ	n/a	\$1437.50		No	\$1437.50

Improving Risk-based licensing (RBL)

RBL is already a major feature of the current ACT liquor licensing framework, having been introduced in the *Liquor Act 2010*. RBL aims to recover some of the policing and regulatory costs of alcohol-related offences with higher risk licensees required to contribute proportionally more to these costs by paying higher licensing fees. From a policy perspective RBL should also provide an incentive for liquor outlets to modify their practices. RBL as applied in the ACT currently does not do so.

Existing reforms adopted at the same time as RBL in Canberra include:

- mandatory Responsible Service of Alcohol (RSA) training for employees in the industry
- mandatory risk assessment plans for all liquor licenses
- power for the Commissioner for Fair Trading to impose and vary licence conditions
- powers for the Minister to declare a lockout and for ACT Police to close a venue
- requirement for licensees to keep an incident register.
- Increased penalties for supply that patrons that breach liquor regulations.⁹

The Government's review processes includes the following key findings, which Keep Canberra Open supports:

ACIL Allen Review

The *Two Year Review of ACT Liquor Laws and Licensing Fees* by consultants ACIL Allen was focused almost entirely on the effectiveness of RBL in reducing alcohol-related violence and other harms. It suggests that there are a number of ways that RBL can be improved. These include:

- Working with stakeholders to explore the issues of opening hours and outlet density
- A risk profile approach for individual venues, coupled with a tailored management plan
- Adjustments to licence fees based on compliance record
- Best practice management including added security, CCTV, transport services, chill out rooms, food service or responsible promotions policies.
- A ban on drink promotions and discounting, including in off-licenses.

FARE Study

Risk-Based Licensing and Alcohol-Related Offences in the Australian Capital Territory, commissioned by the Foundation for Alcohol Research and Education (FARE) is the first study in the ACT to evaluate the effects of RBL on alcohol-related offences and to seek input from key stakeholders. The ACIL Allen Review and the White Paper draw heavily on data from the study. The study found that:

RBL has coincided with declines in alcohol-related offences throughout the ACT. This trend was corroborated by almost all interviewed who felt that RBL had benefitted the ACT, particularly in providing more police resources for alcohol prevention. In light of these findings and the significant costs of alcohol-related incidents to the ACT community, there is a good case for RBL to continue. RBL helps to recover the policing costs in preventing and intervening with alcohol-related offences and does so in a way which ensures that the venues with the greatest number of risk factors paying a larger share of these costs. Furthermore, it has achieved this without any detrimental impacts on the liquor licensing market as there is no evidence that the number of liquor licenses in the ACT has significantly changed since RBL's introduction.

However, the study also highlighted a number of factors overlooked by RBL. Chief among these are the contributions of outlet density, preloading and off-trade licensing to alcohol-related offences. To what extent these factors are within the remit of RBL or are better addressed through complementary policy reforms remains to be determined. For instance, addressing outlet density demands an examination of saturation points, particularly in Civic and other entertainment precincts. Results of such a study could be used to inform and enforce caps on outlet numbers in these areas. Pre-loading may be more effectively tackled by setting a minimum price on all alcohol sold than by reforming RBL. The licensing practices of off-trade licensees need to be audited to determine if they warrant similar regulation to on-trade premises.¹⁰

The FARE study found that the proportion of alcohol-related incidents occurring in public places or in licensed

⁹ Issues Paper p.6

¹⁰ FARE study p.7

premises is highest during the period 3am-6am, and that there was no proportionate decrease in incidents after midnight or in licensed premises after 2010 due to RBL. The evidence shows that excessive drinking is not just occurring after 3am in Civic.

Nowhere in the qualitative research in the FARE study are stakeholders reported to support a blanket earlier closing time, changes to occupancy loadings or one-size fits all increases to license fees for late night traders. In reality the police, for example, while supporting the concept of lockouts, also recommend staggered closing times.

Increased police resources funded through RBL were found to have many benefits, including:

- earlier police intervention with alcohol-related incidents and more ownership of the issue by police
- better working relationships and more contact between licensees, police and ORS (police and regulators)
- policing gaining more “intelligence” about clubs and pubs
- Increased policing of licensed venues overall, but concentrated in Civic.¹¹

Chapel Street Study – venue density

The FARE report highlights a need to assess “saturation points” in terms of outlet density, noise and patron numbers in Civic. This is an issue deserving of much closer consideration in the context of plans to increase residential population and visitors to Civic such as light rail, the City to the Lake development, and ongoing developments in Braddon. It need ongoing consultation with land and environment planning agencies and residents as well as relevant industries.

There are strong grounds therefore to consider a fully-fledged study of late-night trading before making any drastic changes to licensing such as those proposed in the White Paper. The *Late night liquor licence trading in the Chapel Street precinct: Measuring saturation levels* was undertaken in 2010 for the City of Stonnington, Melbourne regarding the Chapel Street area, one of the busiest nightclub precincts in Australia. The study recognized the importance of the late-night economy and provided objective evidence to the City of Stonnington to support better planning around saturation points, venue density, new licenses, venue capacity, venue design and social impacts.

Chapel Street has around 133 licenced premises with 39 bars and nightclubs operating after midnight, as well as 18 hotels, in an area of roughly 4 square kilometres. The study found that this amounted to saturation and recommended a limit of 50 licences of all types operating after 1am, and tighter restrictions on granting new licences. Civic is 1.5 square kilometres, suggesting an overall saturation point of 18 or 19 licences after 1am, not counting Braddon.

Working to change negative behavior—the Cardiff model

Closing the city at 3am won’t address the attitudes that result in excessive drinking and violence. Doctors in the city of Cardiff in Wales decided that they needed to intervene to change drinking behavior in order to reduce violence. Leading emergency medicine specialist, Dr David Caldicott, has urged that the Cardiff Model be introduced in Canberra.

The Cardiff Model is an excellent example cross-sectoral collaboration—the strategic use of information from the health sector to improve policing. This model has helped to reduce the incidence of violence by 40% in Wales since its full implementation in 2002.¹² Emergency department nursing staff are trained to gather data and counsel people attending for alcohol-related injuries. The result is far more effective and cheaper than specialist interventions, which usually only take place after police intervention.

Some people may object that putting this responsibility onto ER staff will increase their already hectic workload and increase healthcare costs. Given the outstanding results in Wales, this must be viewed as a long-term investment. The potential for reducing excessive drinking and associated violence under this approach is far greater than the measures the Government is proposing.

¹¹ FARE study p.21

¹² The Cardiff Model p.3

Pre-loading and underage drinking

Some problems have been identified in the review that aren't addressed by RBL or because there is a lack of data. For example, pre-loading—drinking cheaper alcohol purchased at off-license bottle shops—is widely seen as a major contributing factor to alcohol-related incidents.

Another worrying trend highlighted in the FARE study is the increase in ambulance attendances for excessive drinking by under-18 year olds contributing to a rise in alcohol-related incidents that are not in any way the result of late-night venues.

Keep Canberra Open is not here to prescribe to the Government how these issues can be fixed. But the industry stands ready and willing to contribute to data collection and an ongoing discussion.

A real plan for the night-time economy

If Canberra wants to be a world-class city and tourist destination, it needs to learn from the experiences of other cities and gather best practice from around Australia and internationally. We don't just want to ask how do we fix alcohol-related violence; we need to ask how can we transform our city at night. And we can't avoid the reality that late-night restrictions would decimate our flourishing music industry.

Impacts on live music in the Sydney CBD plan of management 'lockout' zone 2015

There has been a 40% drop in live performance revenue at venues within the Sydney CBD lockout area according to figures released in February by APRA AMCOS through the Live Music Office. The data also shows a 19% decrease in attendance figures at nightclubs and dance venues since the lockout precinct was introduced in 2014.

APRA AMCOS analysed its licensing revenue for the period 1 February 2013 to 31 January 2015, and saw additional decreases in the value of fees collected from licence holders within the Sydney CBD Plan of Management lockout area:

Venues with a Live Artist Performance licence – All premises

- 40% overall decline in the value of door charge receipts
- 15% overall decrease in the value of venue expenditure on live artist performers

Venues with a Live Artist Performance licence – Hotels, bars and nightclubs

- 32% decrease in the value of door charge receipts
- 17% decrease in the value of venue expenditure on live artist performers

Venues with a Recorded Music for Dance Use licence – All premises

- 19% decrease in attendance figures across all venues

The APRA AMCOS licence fee for Live Artist Performances is based on a percentage of the venue's expenditure on live artist performers and a percentage of any ticket charges. The APRA AMCOS licence fee for Recorded Music for Dance Use is based on attendance figures. APRA AMCOS reassesses the value of a venue's licence annually on the anniversary of the licence coming into effect. Accordingly, the full impact of the Sydney CBD lockout will be reflected in the organisation's data post February 2016.

Cool Little Capital

In late 2015, MusicACT and the Live Music Office submitted the *Cool Little Capital* action plan to the ACT Government with 25 best-practice recommendations gathered from around Australia to support music and cultural practice. A number of the recommendations were specifically on liquor licensing. The action plan also emphasised a need to examine and consult on the combined effects of regulation across different directorates, including environment and land planning.

The White Paper has picked up on a number of the CLC recommendations and it is hoped that these will be adopted: a) proposal 8, which would add support for the music, art, entertainment and tourism industries to the objects of

the Liquor Act, and b) proposal 39, which would allow non-profit community organisations to sell liquor without a permit at up to six small fundraising function per year. However, the White Paper omits a number of the most important recommendations of CLC, especially that there be ongoing dialogue with the music and cultural sector to address the regulatory issues, including planning and noise.

Experiences from places with a 24/7 economy

Undoubtedly it's better to have patrons in a controlled environment through the availability of safe, well-managed venues than just roving the streets after midnight. For example, often problems are caused by patrons waiting in lineups or going outside to smoke. It would be better to have these outdoor areas controlled by venue security, with CCTV as well as regular police patrols. Issues like these are being successfully managed in a vibrant 24/7 economy in some of the world's greatest cities.

Melbourne is universally acknowledged as one of the world's great nighttime cities, and music cities. The White Paper even promotes Melbourne's "laneways" culture as something that Canberra should try to emulate. Of course, Melbourne tried and rejected lockouts and now proudly has policies and regulation that support live music and a 24/7 economy. Liquor license fees in Melbourne are based on a matrix of license type, operating hours, compliance history and venue capacity.

Another innovation in Melbourne is the *Live music license conditions matrix* which recognizes the importance of diversity in late-night venues and the importance of supporting culture. In order to gain exemption from certain license conditions a venue must develop a plan of management that includes such as extra security and CCTV, and adhere to those conditions in order to retain the exemptions. This is supported by detailed *Best Practice Guidelines for Live Music Venues*, which could form a good basis for an ACT code of practice for all late-night venues.

A city that the ACT Government wants to emulate is **Wellington** in New Zealand. Wellington has a positive, dynamic, people-centred policy and a thriving late-night economy estimated at \$33 million per year.¹³ Its liquor trading policy is designed to ensure that those trading after 3am are capable of minimizing risk through building the capacity of venues rather than penalizing them through licence fees, and seeks to increase the activity mix to reduce the focus on alcohol consumption as the primary activity.

Amsterdam has a world-famous 24/7 economy and has appointed a Night Mayor, with London and Berlin looking to follow suit. The current Night Mayor, Mirik Milan, has said:

When it comes to night culture, there's always a lot of misunderstanding. The night is always treated differently to the day. If we have a problem at night the first thing policymakers will often do is say: 'We can't do it anymore.' They decide to ban things and end up killing an industry.¹⁴

Other Amsterdam innovations include the Rembrandtplein Hosts, who rove the main nightclub area reminding revelers of the rules: "Stay classy, think neighbours, drink inside, use a loo."

¹³ Wellington: The Right Mix

¹⁴ AHA NSW Submission p.35

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