



## 2011 Residents' Association Inc.

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To: Ms Libby Harris, 'Night Time City Senior Project Manager'  
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### Bayswater Road Transport-Only Zone

2011 Residents Association Inc. (2011RA) is primarily concerned with the protection and enhancement of residential amenity for residents living in the suburbs of Kings Cross, Potts Point, Elizabeth Bay, Rushcutters Bay, and Woolloomooloo; those suburbs in the 2011 Postcode area.

#### **Background:**

City of Sydney has proposed to close vehicles access (except for taxis, buses, emergency vehicles and businesses and residents vehicles) to Bayswater Road, Potts Point from Darlinghurst Road to Ward Avenue. The stated purpose of the closure is to "manage large numbers of intoxicated persons in the public domain" and to "improve safety and public amenity", and to reduce alcohol fuelled violence. A trial of the road closure is proposed to be conducted on Saturday nights – 22 March, 29 March and 5 April 2014 - from 9:00pm to 6:00am.

2011RA has concerns about proposal and is opposed to the closure of Bayswater Road as set out in two broad areas:

- A. Specific Concerns**
- B. General Concerns**

#### **A. Specific Concerns:**

- The closure is likely to funnel traffic down Victoria Street and Ward Avenue, increasing traffic in those streets and diminishing residential amenity for residents in those streets. No proper mechanism is in place to measure the loss of amenity and inconvenience for residents in Ward Avenue and Victoria Street.
- No proper mechanism is in place to allow residents who live outside Bayswater Road, but who rent car-spaces in Bayswater Road access to their parking spaces during the period of the road closure.
- No proper mechanism is in place to measure the effectiveness of the "trial in attaining its stated objective of reducing alcohol fuelled violence. At a minimum any data representing the occurrence of alcohol fuelled violence needs to be contrasted with full year figures, figures for the corresponding period in the previous years and full details of weekend violence over a 2 year period need to be set out.

- The well-known Newcastle solution has been shown to be effective in reducing alcohol violence. It would be worthwhile trialling this program for a period of 12 months rather than trialling a road closure which is untested and of dubious merit.
- It has been stated that Bayswater Road will be used by traffic only and not turned into a pedestrian beer garden. The proposal does not address the problem of lack of pedestrian space. It is likely that if roads are closed to cars, then pedestrians will utilise available road space to deal with the overcrowding. There is no guarantee that there will be a decrease in alcohol fuelled violence as a consequence.
- It has not been fully explained how the road closure will work (other than to close the road to most traffic) or how it will increase the speed of departure for motor vehicles from Kings Cross. Using the logic that has been applied, it may well serve to increase the speed of arrivals at Kings Cross. There needs to be a mechanism by which both the speed of departures and arrivals can be measured and properly contrasted with the speed of arrivals and departures under the existing regime.
- It is likely the proposal will increase traffic usage in Kings Cross Road, thereby detrimentally affecting the amenity of residents in that street. Residents of other streets are likely to be negatively impacted by the proposal. There is no gain for residents in Bayswater Road. The benefits (if any), of the proposal flow solely to businesses, specifically alcohol vendors; it benefits a few at the expense of many.

## **B. General Concerns.**

- The concentration of licensed drinking venues in Kings Cross is the responsibility, site by site, of the individuals and corporations who have decided on the Kings Cross locality for their businesses. The owners of the businesses now seek public space and public resources to attempt to ameliorate the cumulative negative results of the accumulation of like businesses in the Kings Cross locality. They seek those resources while they trade on regardless. The road closure[s] project purports to remove trouble-makers or neutralise their antisocial behaviour by creating more space for them. This line of reasoning does not make sense and is untested.
- The reason for business people deciding to come to Kings Cross to sell alcohol is based on the belief that police, the State Government, and Council have adopted a different set of laws for the Kings Cross locality and that this different set of laws is 'known' to the business people who wish to exploit the surge of young consumers. The operators pay cash-in-hand to casual staff in low-skilled businesses intended to generate cash flow which then allows them to determine how much taxable income they declare. Since the early 1990s there has been an increase in the number of alcohol outlets accompanied by an inevitable increase in street noise plus noise from excessively loud music from within licensed premises. Some locals now go elsewhere to sleep at weekends.
- For the greater part of the 20th century, Kings Cross was home to an above average number of people who juggled day jobs with part-time work in the creative professions; acting, film, theatre and radio, painting, sculpture, writing, and music. Darlinghurst Road from Bayswater Road to Roslyn Street, at street level in particular, went in a different direction from about the time of the Second World War, gradually taking over from Stanley Street and associated laneways, as the prime location for street prostitution. Above street level throughout the locality lived people taking risks with their lives in the creative sense, not in the sense of engaging in illegal activity, but the perception elsewhere of their being 'different' allowed a false reputation to grow.

The most virulent and successful businesses today are alcohol-related. This is due to two levels of government; represented by Sydney City Council and the State Government actively encouraging a night-time economy. This comes at the expense of the day time economy and local residents.

- Council is trying to loosen the rules making it easy for businesses and placing the onus on residents' to manage breaches in trading terms and conditions. Council intends to remove the decibel level limitations from DAs which will make it more difficult for residents to complain about breaches of DA conditions. Council also has run 'focus groups' which preclude residents and genuine discussion of issues, excludes historical examples, and denies complexity. Council shows concern for its own staff, citing lack of physical safety as a reason for not having cleaning teams come through in the early hours, and referring more recently to an incident in Bayswater Road in which two Council staff were allegedly threatened with assault or in fact assaulted, yet they show little or no concern for the safety of residents who live with the violence and filth created by Council's determined push for a late time economy which translates into an alcohol fuelled economy.
- One of the ways Council has attempted to minimise residents who complain is to tell people that "they don't like the noise to leave"; as if this were simple to do. They also pose the question of 'Who was here first?' when it suits them to do so. This is applied arbitrarily to suit their needs.

Example 1:

One of the members of our association lives in a building constructed in 1928 after a DA approval on 1 December 1927. Opposite is a hotel, relatively quiet at the moment, after an enormous campaign which eventually led to a \$10,000 fine. Council staff never once mentioned the 'who was here first' notion throughout the campaign by residents. Further, when vacant flats are shown to prospective tenants, this is done during normal business hours not 1:00am. It would be difficult for a prospective tenant to know that at the moment the hotel isn't too noisy but that the noise may well reoccur.

Example 2:

The same hotel was taken over and substantially rebuilt in 1999 - 2000 by a former merchant banker. A licence was transferred from a hotel elsewhere that was being converted into residential apartments. How can a resident of the 1927/1928 building know, regardless of when the resident moved in that a liquor licence was and has been transferred in, that the ownership of the licensed premises is no longer with people primarily interested in hospitality, or that the substantial rebuild would be signed off by a private certifier, so there would be continuing noise emission problems?

- 'Who was here first' also seeks to add an over-riding variable to applicable law, so that an offender gains non-offending status through time, by way of accumulated seniority. That is jurisprudential madness. A nasty variation of 'who was here first' is that even if a person who is now of retirement age, or approaching retirement age, is bothered by the street noise, public urination, public vomiting and loud music from within licensed premises, then that person may be told to go elsewhere to live because the current regime while not here first, is the prime de facto resident. So another over-riding variable is that might is right.

- Council seeks to rationalise the accumulation of licensed venues, an accumulation which has occurred directly as a result of alcohol-business owners' individual voluntary decisions. The current rationalisation is that there is 'an event' every weekend. What the rationalisation amounts to is a de facto screen for the accumulation of poorly managed venues which seek to trade on their [mis]conception of the Kings Cross reputation without contributing anything positive to the locality.
- The 2011 Residents Association has a straightforward perspective, based on the need to enhance residents' amenity from the present diminished amenity; save residents' costs in terms of insulation, the need to sleep elsewhere and the costs paid through rates and taxes of extra Council services and police staff power; sheet home prime responsibility for breaches to the culprits; and have enforcement of conditions and breaches of conditions done without residents needing to become involved.
- More specifically, in Kings Cross Road there are already a gridlock on Friday and Saturday nights, from the Kings Cross intersection which gives its name to the locality, to Ward Avenue, and this is expected to get worse; Victoria Street is also expected to get worse with flow on in the streets which allow traffic to Macleay Street; and Ward Avenue, from Kings Cross Road to Elizabeth Bay Road to Greenknowe Avenue is expected to get worse, and Roslyn Street, from Darlinghurst Road to Barncleuth Lane, is already jammed with taxis from about 3:00 am to 5:00 am on those Friday and Saturday nights on which 'Lady Lux' / 'Acme Bookstore' / 'The Back Room' is open and the taxi drivers blow their horns incessantly at other taxis further down the jam. The possibility of a de facto beer mall in Bayswater Road is officially denied at present, so let us consider what is officially proposed for the Bayswater Road closure from Darlinghurst Road to Ward Avenue; a closure for non-public transport unless residents' vehicles are involved. Council's argument, in tandem with alcohol-lobbyists, is that the closure will help public transport to move vulnerable visitors to Kings Cross, more quickly out of the locality. The proposal will, if it works, also ensure that visitors move more quickly into the locality. So what is really involved is an acceleration of turnover of prospective customers for private alcohol vendors so those vendors can increase their profits.
- If there is a neutral effect on the profits of the alcohol vendors because all that happens is transport out is quicker, then the ostensible justification for the proposal becomes that king-hits, other violence, vomiting and urination will occur in the buses and taxis rather than in the streets of Kings Cross. We do not wish the problems foisted on us merely to be shifted elsewhere.
- We are also concerned about the morally bankrupt notion; the much bandied about and Council-supported 'night-time economy'. This economy is made up of capital, workers, skills, and products. Council appears to favour grossly private capital, with some concern for its own staff. There is no concern for the mostly casual staff employed in crowded and unsafe premises with dangerously high noise levels. Further, OH&S does not appear to rate. And what is the product? Drunkenness, vomiting, public urination, violence, smashed glass, and vandalism of shop-frontages, trees, motor vehicles and residential apartments. Those who pick up the tab for the repair and the inconveniences are certainly not the owners of the clubs and pubs who benefit from this myopic focus on a night-time economy.

## Recommendations:

- Council to set out clearly the baseline measures and criteria against which it proposes to measure the impact of this social experiment with road closures.
- Council and the State Government to identify how they intend to pay for and recoup all the costs of Council staff and police who are employed in the process of trialling this road closure work. This must come from the night-time economy; not residential ratepayers' money.
- When and in what form it will publish the results of its findings. These need to be made public.
- The 2011 Residents' Association strongly recommends that the Newcastle solution be implemented here. We recommend earlier closing times and tighter controls over those business owners who trade illegally; businesses operating after the closing time with the doors shut, or before the opening time with the doors shut.
  - A recommendation is that all licensed premises close at 10:20 pm on Sundays to Thursdays, 11:20 pm on Fridays and Saturdays. We suggest 11:20 pm closing on public holidays, provided the next day is not a working day. We are allowing, for a trial period, 40 minutes for people to clear the locality. No premises to be permitted to commence trading before 7:00 am. Residential amenity means the right to peaceable enjoyment for those who live in the area. We seek no more and no less than the rights of residents of other residential localities.
- Licences for 24 hour, 7 days per week trading for alcohol-related businesses are to be abolished. Hotel and bar owners need to earn the right to trade; rather than seeing it as their right. Society has moved on from boozy de-briefings and compulsory alcohol with recreation. There is no justification for these premises in a residential locality anywhere.
- A more effective complaints process. In forums held with Sydney City Council, residents have repeatedly requested a more effective complaints process; one that actually has teeth. This has not been forthcoming and means that businesses can continually be in breach of the DA with absolutely no consequence.
- Consistency in the application of penalties for breaches of DA's. Risk of loss of business if breaches are serious; the conditions need to be clear to both residents and the businesses that operate.
- Implementation of ideas to get a better balance of businesses that form the late night economy. Why only alcohol and why only appealing to 20 -30 age sector? This makes this area a no go-zone for diversity of ages and business composition, which is what, makes this area unique in the daytime.
- NSW State Government and City of Sydney Council find other innovative and State leading ways to take NSW forward instead of drawing on the lowest common denominators; gambling and alcohol. These will not make NSW the premier state; nor will reliance upon them set NSW apart from VIC; it's arch rival.

*This submission was written by a Sub-committee of 2011 Residents' Association Inc.  
Helen Crossing, for and on behalf of 2011 Residents' Association Inc.*