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## The Cumulative Impact of Licensed premises in NSW

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The 2011 Residents' Association (2011RA) represents the residents of the 2011 postcode area of Sydney, Australia. This area includes Potts Point, Kings Cross, Elizabeth Bay, Rushcutters Bay and Woolloomooloo.

This submission will focus on the cumulative impact of licensed premises in the suburb of Potts Point, which includes Kings Cross, and provide recommendations to address the saturation of licensed venues which continues to have a negative impact on the community.

'Kings Cross' is a notorious 'late night premises area' promoted by the City Of Sydney as part of the campaign for a late night economy. Kings Cross refers to the intersection of William Street, Darlinghurst Road, and Victoria Street and was originally named Queens Cross in honour of Queen Victoria's diamond jubilee.

### Background information:

Potts Point and Elizabeth Bay are among the most densely populated residential areas in Australia. According to 2006 Census data, Potts Point is 0.6 square kilometres in area and has 6,877 residents. Elizabeth Bay, which adjoins Potts Point, is 0.3 square kilometres and has a population of 4,947 people.

Potts Point has the highest density of licensed premises and 'late night trading' premises in NSW. A report published by City of Sydney in 2012 on a survey titled "Kings Cross at night" shows that there were 189 licensed premises, 19 of which held 24 hour trading licenses. In all 350 businesses operate from 11:00 pm, 250 open until 4:00 am and 200 remain open until 5:00am. This represents a massive increase in pubs and clubs in this area since 2007.

Residents strongly oppose the clustering of late night licensed premises because problems associated with these businesses are compounded when more are located together. The rapid growth in the number of licensed premises in Potts Point since 2007 has and continues to diminish residential amenity of the area with serious impacts on residents and those visiting the area. The impacts will be outlined in this submission.

The issue of saturation continues with City of Sydney determinedly proceeding to approve more licensed bars and clubs to expand their footprint. The Bourbon was recently granted approval for more outside seating.

The problem with this disproportionately large number of venues all focused on selling alcohol as the primary source of revenue, is that it draws a massive crowd of people into the area, particularly on Friday and Saturday nights. The people are over-represented by those under the age of 35. In fact, 89% of are in this age group and of them 60% of them are males. The primary reason for coming to Kings Cross is to go to a club or bar. This combination of out of control crowds and excessive consumption of alcohol which fuels aggression continues to be a recipe for violence and anti-social behaviour.

## **IMPACTS**

### **1. Noise Pollution**

There are significant impacts on residents from noise created by patrons. Late night trading means restaurants and bars close at 10:00 pm, 11:00 pm, and 12:00 am. Many of the nightclubs remain open until 4:00 am, 6:00 am and later. While patrons are outside their noise is audible to residents. Noise in summer and late at night carries through the area and into homes. Many venues open onto the street as well as having outdoor seating on terraces and footpaths, which compound the problem.

Potts Point has many heritage apartment buildings that have studios and smaller apartments with bedrooms that face onto the street. This is incompatible with late night commercial activity, especially when these businesses operate outdoors. There is usually no respite from the noise in these older style apartments where windows need to be open to for air; they do not have air conditioning.

Noise is created by intoxicated patrons who form crowds on the streets. Patrons also create noise as they queue outside venues waiting to get in, and as they walk between venues. Patrons leaving late night venues under the influence of alcohol typically talk loudly and show little concern about how their behaviour impacts others. They disturb people in the immediate vicinity of the venue, but also all those en route as they make their way out of the area walking to find a taxi or locate their parked car.

The primary impact on residents located near nightclubs and bars is from amplified music and/or 'public entertainment'. Noise levels are frequently in excess of the permitted decibel level. The geography, as well as proximity, means that wherever there are balconies, rooftop access, and open window/doors, sounds travels. The loud, intermittent and random noise is a significant problem for residents. Police and Rangers are unable to act to control this noise. There appears to be no penalty to nightclub owners for breaching their DA.

Buskers with amplified music set up in the streets, take advantage of the revenue they earn from the crowds by continuing to play into the early hours of the morning.

The saturation of licensed premises in Potts Point has led to a high volume of motor cars and bikes entering the area with a corresponding increase in traffic noise. This also affects surrounding areas of Elizabeth bay, Woolloomooloo, and Darlinghurst. Vehicles are driven by people wanting to attend licensed premises or by others who simply circle the area to sightsee. The noise from this traffic is most noticeable from Wednesday to Saturday and

from 10:00 pm until about 4:00 am. The reduction of off street parking in the area has resulted in motorists driving around for anything up to 30 minutes in an effort to find a car space. Often they temporarily park in bus stops and no standing zones and are noisy and disorderly. Party buses also park in bus stops and their passengers use gardens and green areas as toilets as they walk to and from Kings Cross.

Motorists also contribute to the noise by; having stereos at full volume, yelling out to people on the street, sounding horns, having loud exhausts, accelerating rapidly, and leaving motors idling. Cars often travel in rowdy convoys which compounds the problem.

Trucks regularly transport goods into the area to service each licensed premises, nightclub, restaurant, café and bar. Trucks, when left idling, the sound of warning alarms when reversing, and the noise from changing gears all serve to make, what was once background noise, very much in the foreground noise.

There are more than 12 separate private garbage collectors that come into the area to pick up waste from restaurants, cafes, and bars in addition to the council trucks. The incessant noise from delivery trucks, which have been noted to turn up at 3:00 am and garbage trucks, which start around 6:00 am, further exacerbate the impact on residents. In addition Council also has its own fleet of street sweepers, motorised, and manual labour.

Residents are also negatively impacted at night by noise from emergency vehicles including the police and ambulance on their way to deal with violence and anti-social behaviour.

## **2. Criminal Impact**

Criminal behaviour and illegal activities are associated with the late night economy. The clustering of venues exacerbates the dangers for visitors and residents alike. There is evidence that nightclubs attract criminal elements and this has led to conflict and serious assaults in and around the venues. Assaults, shootings, and murders have taken place in the area and the difficulties Kings Cross police have in maintaining order on the 'strip' are well documented, by both the police themselves and in media reports. The deaths of Thomas Kelly's in November 2013, and Wilson Castillo in February 2011 and the recent rape of a young Belgian woman out walking on Victoria Street are the results of saturation, advertising that makes people feel anything goes, and the attraction of criminal elements into the area who can hide in the crowd. On a national basis 'one-punch' assaults have cost 90 Australian their lives since 2000, most in booze-fuelled bashings, a study has found. Each victim was killed by a single blow to the head or when they fell unconscious, striking their skull against the ground

## **3. Health Impact**

The health impact from the saturation of licensed premises can be physical as well as mental. They include cuts by glass and spread of disease from unsanitary environment, and personal harm as a result of assault from intoxicated people or anxiety/stress triggered by being kept awake and by lack of sleep.

The other major health issue for 7,000 or so people who reside in this area is Sleep Deprivation – which arises from insufficient hours of sleep or disturbed sleep. The economic impact of this alone if it were possible to quantify – would be enormous. Research shows that most adults need between 7.5 and 9 hours sleep. Given late night trading hours followed by noise from clean up, most residents have a reduced window of opportunity to get the requisite hours sleep. (See old style premises – that do not have benefit of double-glazing and air-conditioning to help cut out noise).

Sleep deprivation compromises: cardiovascular health, ability to fight infection, speed of decision-making, concentration, ability to think creatively and logically, mood and mental health.

The impact of a lack of sleep is immediate, in that it impacts the person's performance the following day. Sleep deprivation becomes chronic when sleep is continually disrupted and as a result, symptoms become more extreme.

Census statistics show that 42% of the population of this area who work in finance, business, and professions. If these people turn up for work sleep deprived this represent a large number of underperforming and 'at risk' people. NRMA estimates that 1 in 6 fatal road accidents are the result of sleep deprivation.

Those people attending nightclubs on a regular basis as well as those travelling in cars with sound systems blaring are likely to be permanently damaging their hearing; they may incur hearing impairment or even deafness. To allow nightclub owners to breach regulations around acceptable sound levels is giving permission to damage people's hearing. Exposure to excessive sound results in loss of hearing which is not only a cost for the community but for the individual concerned.

It is important to think long-term about the issues the late night economy creates as well as the immediate short-term revenue grab it produces.

Other health impacts include the effects of intoxication and alcohol related illness on the individual concerned. There is an increased risk of personal injury to due to accidents arising from intoxication.

Anti-social behaviour can affect others including residents. Verbal threats, abuse, and physical assault will negatively impact anyone targeted by such behaviour. Serious assault perpetrated on others can cause debilitating injury and sometimes death.

The impact of clustering licensed premises puts a huge strain on emergency services such as police, ambulance, hospital professionals, and resources. Witnessing violence and the personal injury from serious assaults also serves to have long-term and negative impacts on their mental health.

#### **4. Environmental Impacts**

The increased density of licensed premises in Potts Point has a direct impact on our local environment. The large number of people who come into Kings Cross, estimated to be up to 20,000, cause waste pollution on a huge scale. The streets are littered with empty bottles, broken glass, cans, chewing gum, discarded food, fast food wrappers, vomit, urine, and other body waste.

Council utilises significant resources on cleaning up the mess each day but not all areas are covered by the clean-up and residents are left to clean up their property in the after math of Friday and Saturday night's crowds. Every residential dwelling and business with an alcove entry or exit doorway has to send in a cleaner to hose away the urine and other waste.

Large numbers of apartment buildings generate large numbers of rubbish bins. Bins are kicked over on a regular basis by drunk and destructive people leaving the area. Garbage is strewn across footpaths, dumped into streets, and sometimes emptied on parked cars. Apart from adding to the mess residents must clean up, it also attracts rats and cockroaches; it is a health risk particularly in summer.

Environmental impacts can be closely associated with increased traffic volumes. The exhaust fumes and emissions from the increased number of vehicles that enter the area negatively impact on residents.

## 5. Transport Impacts

Reduced pedestrian access by residents and visitors alike due to the footpath being blocked by large crowds and queuing patrons. People passing through are forced to walk on the road because footpaths are completely obstructed. This is unsafe and unpleasant.

There is reduced access to public transport due to the street being blocked by vehicles that come into the area at night. Darlington Road is not accessible by bus at night as bus diversions are in place from 7pm. Reduced access for residents' vehicles as the area is often gridlocked on Friday and Saturday night between 10:00 pm and 2:00 am.

There are insufficient taxis due to traffic grid locks and taxi drivers avoiding the area due to concerns for their personal safety. People who are desperate to get home, run out into the road to hail cabs, risking their own safety and adding to the chaos.

## RECOMMENDATIONS

### 1. Increase and ensure compliance

The huge number of licensed venues, many with late night trading permits, necessitates a major emphasis on venue compliance by OGLR, COS and NSW Police. The monitoring of venue compliance is an important and essential element to address the issues and impacts raised in this submission. This will remain an essential need regardless of any changes such as trials of closing/lockout times or geographical extensions to the Liquor Freeze.

To return some semblance of order to this area so that a broad range of people can enjoy the night life requires that compliance is mandatory and a round-the-clock 24-hour basis corresponding to the opening hours of licensed premises. It is essential that there be swifter, harsher, and immediate penalties (monetary fines or temporary closure) for infringements, including anti-social behaviour by patrons who have exited venues, and extending to footpaths, back streets and lane-ways. The fact that there is no immediate impact for blatant breaches of trading conditions means that many owners make this a practice to the detriment of residents. There must be zero tolerance for breaches. This would bring rapid change to the area, and save the attendant costs to residents and Council in preparing and responding to complaints.

### 2. Enhance the Village of Potts Point & Elizabeth Bay

What we want to preserve is the sense of community; the village atmosphere that exists where diversity is accepted, people are respectful and are free to enjoy an energised, and convivial, social environment. The key element of Potts Point and Elizabeth Bay which makes it a village is the mixed demographic of aged, young, rich, poor, gay, straight, radical, conformist, creative, practical and more.

It is important that we encourage a rich mix of businesses from bookshops, music stores, and fashion boutiques, to cafes, delis and grocers, all of which are accessed on foot, creating a vibrant street life, both day and night, and a strong sense of community. The problem with so many late night venues is that they exist at the expense of diversity and survival of small business that operate during the day. The late night economy has grown at the expense of the day time economy.

### 3. Exercise better control over licensing and act to ensure compliance.

OLGA to call for a freeze on any further Council approved DAs in liquor freeze zones.

Prevent transfer of liquor licences to ensure those managing premises have appropriate training and controls to do so.

Introduce automatic expiry of licences after three years, subject to public notice to comment and a "score card" report that records complaints.

Have a buffer zone for licence premises of 50 metres.

Institute a 24 hour OLGA complaint hotline.

Have tougher penalties including suspension for breaching conditions. Suspension to be automatic for serious breaches and a 'three strike rule' for less serious breaches.

Increase the number of OLGA site inspections with a minimum 12 per year and an on-line register of non-compliance and complaints. Run spot checks to ensure compliance with noise levels and serving of shots.

#### **4. Introduce liquor licensing fees for pubs and clubs as in ACT.**

It is usual in other business sectors for companies to pay for their cost of production and clean up. Similarly, Clubs and Pubs must be required to contribute to the massive cost to the community that they create; police, ambulance, transport, impact of crime, and the garbage that is left behind once their patrons leave. This can be calculated on revenue and footprint.

#### **5. Assess the Cost of the late night economy – Social and Financial**

Is this drive for a 'late night economy' achieving the economic benefit to the State that it purports to achieve? The increased density of late night premises has not resulted in a 'vibrancy', instead it has created an environment and precinct that is tawdry, chaotic, disorderly, raucous, irresponsible, menacing, out-of-control, and dangerous. It is a precinct where there is illegal activity and excessive use of alcohol in addition to illicit drugs. It is outrageous for government to contemplate that for the sake of a late night economy, anti-social behaviour contained or uncontained is an acceptable way of raising revenue, particularly given that it is at the expense of local residents' health and amenity and the health and well-being of those who drink to excess in the name of a 'good time'. The late night economy also appears to be pursued at the expense of the day time economy.

#### **6. Implement a meaningful Liquor Freeze**

Amend the legislation so that the so-called "liquor freeze" can actually have an effect. The current legislation only applies to a very limited type and number of premises. It only applies to bottle shops and venues that have a POPE (licence to be a place of public entertainment). And it only applies to these venues if they are located within part of Darlinghurst Road or Bayswater Road. Amended legislation is needed to ensure the freeze includes all areas in Potts Point, not just a tiny part of the suburb.

#### **7. Implement a 12 month trial of lockout and early closing**

Implement a blanket 12 month trial of 1.00 am lockout and 3.00 am closing for the Potts Point area. This needs to be put in place urgently so the effects can be measured properly. The NSW government needs to take action with the OGLR to implement a system that has been shown to work in Newcastle. The Last Drinks Campaign recommends these changes and is supported by the Police Association of NSW, the Australian Medical Association (NSW), the NSW Nurses Association and the Health Services Union.

#### **8. We live in Potts Point not an Entertainment Precinct**

The idea of marketing this as an entertainment area sends the wrong message. It is first and foremost a residential area. We want the marketing of the area to be revised. Marketing it as an entertainment precinct is a euphemism for inviting people to use the area for their out-of-control drinking, drug taking, and illegal behaviour. To preserve the village atmosphere in the evenings as well as daytime hours, alcohol free zones need to be enforced. At the moment people ignore the signs and drink on the streets with impunity. We want people in the area who are able to join in and enjoy the area without taking over.

#### **9. Manage Traffic in Potts Point**

Reduce speed limits in the area on all main thoroughfares and larger side streets. Have more police presence at hot spots on weekend nights and deploy traffic police at key intersections and monitor/act on noise from stereos, exhaust systems, and horns.

#### **10. OLGA to relinquish power of approvals for licences**

Appoint community reps [not council representatives] to a new approvals board and increase area for notification of liquor licenses and DAs. In the dense context of licensed premises in Potts Point there is no margin for error. The problems are severe and warrant major changes to government attitudes and policies.

#### **11. Share the night-time economy with other areas**

Encourage the movement of the night-time economy to other non-residential areas in the Sydney CBD. Create hubs in other areas that are being redeveloped such as Alexandria.

#### **12. Survey all local residents in regard to licensed premises**

Survey all residents that live in the 2011 postcode to better understand views towards the saturation of licensed premises in the area.

#### **13. Independent measurement of noise and air pollution**

Implement independent and serial measurement of noise and air pollution at various locations in Potts Point during peak times.

## SUMMARY

Residents of Potts Point are attracted to the amenity provided in this unique location next to the harbour with many green spaces, parks, and within walking distance of the city. People enjoy the diverse array of restaurants, cafes, and small bars. There has been a huge expansion in the number of licensed premises and late night trading which has led to the saturation of Potts Point (includes Kings Cross) and this is having a detrimental effect on the residential neighbourhood.

Residents have the right to have access to their local environment and this includes businesses, libraries, shops, parks, harbour and streets. Residents pay rent/mortgages, rates, taxes, and are entitled to enjoy the amenities of the neighbourhood in which they reside.

The social, environmental, and economic impacts that have arisen from the increased density of licensed premises needs to be a major area of concern for both the NSW Government and the City of Sydney. Both bodies are accountable for the significant detrimental impact of their drive to capture the "late night" economy with scant regard for the negative health, environmental, and economic costs both hidden and patently obvious on local residents, NSW police, and those who get to clean up after each weekend.

It is important to recognise that residents live here, but for the most part the employees of clubs and bars and most certainly the patrons do not. Residents feel under siege every weekend from people who do not value our suburb and the urban residential amenity. The area seems to have little meaning to them other than as a place to drink, party, scream, shout and then leave behind their trash.

There is a direct relationship between the drive to support an individual's right to socialise and the corresponding increase in anti-social behaviour and alcohol-related violence. Real solutions are needed and consideration of retrospective legislation that will address the overwhelmingly negative and cumulative impacts of saturation from the Council and Government to push for revenue from rapid growth of nightclubs and other licensed premises.

The current complaints processes that residents have available to them are inadequate and onerous. Police are under pressure to deal with extreme behaviours such as drunk and disorderly behaviour, criminal activity, or violence as well as noise disturbance. Rangers are in too short a supply to address breaches of DA's FA's with any immediacy. Residents are given the job of 'policing' their immediate neighbourhood when in fact this is the role of Council and the Police.

Residents will continue to show strong opposition to the changes that have occurred over the past 7 years that show flagrant disrespect for their amenity. We want a rebranding of this area so that it is a place that has appeal to a broad cross section of the community where people feel safe, respected, and consequently are able to enjoy this cosmopolitan area. This is one of kind – let's look after it.