



16 November 2015

Senator Sam Dastyari
Chair
Economics Reference Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email: committee.sen@aph.gov.au

Dear Senator

Submission to the Inquiry into Personal Choice and Community Impacts

The Kings Cross Licensing Accord Association (KXLA) is the representative body for Kings Cross licensed premises. The KXLA welcomes the opportunity to provide a submission to the inquiry into personal choice and community impacts in relation to the economic and social impacts of legislation and policies that effect the sale or service of alcohol.

The Kings Cross Licensing Accord is a non-profit industry body representing licensed premises within the Kings Cross Local Area Command boundary. Our purpose is to liaise with key industry stakeholders to pro-actively manage and create strategies to reduce alcohol related crime and aggressive behaviour in the Kings Cross precinct. I provide this submission in my current capacity as CEO / Coordinator of the KXLA and in my previous capacity as CEO of CLUB SWANS in Darlinghurst Road, Kings Cross between the periods 1990 – 2012.

Kings Cross Plan of Management Bill 2012 / 2013 – CBD Plan of Management 2014 – Lock-Outs

Alcohol Related Assaults - Kings Cross

The NSW Government implemented via the Kings Cross Plan of Management (KXPOM) a volume of additional restrictions upon the licensed premises in Kings Cross via a 'One Size Fits All' approach without a review of individual premise performance and with no consideration if a venue was on Schedule 4 of the NSW Liquor Act 2007 or if any 'strikes' were recorded against the venue.

Evidence Basis

The major issue for Kings Cross licensed premises with regard to the lockout condition imposed in February 2014 was the fact that conditions already imposed under the KXPOM were not given the opportunity to be properly reviewed for their effectiveness on an evidence basis. In fact NSW BOCSAR Statistics showed alcohol related assaults in the precinct had reduced by 37% between the period 2007 and 2012 and a further 21% after the implementation of the KXPOM between December 2012 and December 2013.

The second stage of the KXPOM was implemented in December 2013, aside, from the implementation of ID Scanners into 'high' risk premises in Kings Cross. The ID Scanners were delayed in their introduction due to NSW Government probity issues and after delay were implemented in June 2014. The implementation of the ID Scanners into Kings Cross late trading venues was promoted to the previous Premier of NSW by the KXLA and the Australian Hotels Association AHA (NSW) as a best practice harm minimisation strategy, based upon positive feedback received from Hoteliers for five late trading venues in the Newcastle CBD who had introduced them on a voluntary basis. ID Scanners identify the person who potentially has been involved in alcohol related crime and support Police Banning Orders, lock-outs simply lock people out of venues and we note from an article from the NSW Police Union "it is more important people are cut off from drinking alcohol than locked out of venues – all of our evidence based research shows the most effective measure is the 3am cessation of trade."

Lock-Outs at 1.30am

The lock-outs in Kings Cross were implemented in February 2014 despite the fact that ID Scanners were still to be introduced to complete the KXPOM conditions. The lock-out implementation combined with the additional restrictions imposed upon licensed premises under the provisions of the KXPOM has resulted in substantial business failures in Kings Cross for licensed and non-licensed premises.

The introduction of the lock-out provision has resulted in a substantial reduction in patron numbers in the precinct. This has also resulted in a flow on effect to the wider business community beyond licensed premises, including small cafes, restaurants, take-away food stores, backpacker hostels, pharmacies and other general business operators who have experienced a decline in patron numbers, turnover and business failure.

City of Sydney – Patron Intercept Surveys

The City of Sydney has measured an 80% reduction on foot traffic in 2014 in comparison to surveys undertaken by them in 2010 and 2012.

NSW BOCSAR Statistics and Displacement

Kings Cross has historically been a late night entertainment precinct destination with patrons arriving into the area later than most other entertainment precincts. The lock-out provision has resulted in displacement to other precincts that do not have any of the restrictions associated with Kings Cross and the CBD. Media has widely reported increased visitation to surrounding suburbs, especially Pyrmont, Double Bay, Bondi Junction, Newtown, Chippendale, Redfern and Glebe. We also note that alcohol related assaults have increased in numerous suburbs.

Kings Cross assaults on licensed premises in the periods measured between July to June from 2010 to 2015 show the largest % reduction was achieved under the KXPOM and not the lock-out conditions and we note the Crime and Justice Bulletin Number 183 on lockouts and last drinks which concluded:

"The January 2014 reforms appear to have reduced the incidence of assault in the Kings Cross and CBD Entertainment Precincts. The extent to which this is due to a change in alcohol consumption or a change in the number of people of visiting the Kings Cross and Sydney Entertainment Precincts remains unknown."

Venues Closures – Kings Cross after the Lock-Out Introduction

- ✓ Hugo's Lounge
- ✓ Hugo's Bar Pizza
- ✓ The Village
- ✓ The Backroom
- ✓ The Bank Hotel
- ✓ Trademark Hotel
- ✓ Piano Room
- ✓ Villa Bar & Restaurant
- ✓ Piccadilly Hotel (SOHO)
- ✓ Le Panic
- ✓ Love on Top
- ✓ Concrete Blonde

The effects on non-licensed premises in Kings Cross has resulted in the closure of thirty five small business operators, landlords reporting the harshest business conditions in 50 years and also a substantial decrease in property values. Further patron capacity availability for licensed premises has reduced by 3,500 patrons with the venue closures.

Summary

The KXLA believes that to continue to reduce alcohol related crime that it is imperative to adopt strategies that identify individuals that commit crime and increase educational awareness for increased personal responsibility. We believe that a number of strategies have and are proving to be effective however do not believe that lockouts are an effective strategy.

Yours faithfully

Douglas Grand
Chief Executive Officer
Kings Cross Licensing Accord Association Inc.

Annexure A

Kings Cross Precinct Conditions

Background

- ✓ To date major legislative amendments to the Kings Cross Precinct premises via increased operational conditions upon licence has been delivered by the NSW Government with the Liquor Amendment (Kings Cross Plan of Management)(KXPOM) Bill 2012 /2013 after the tragic death of Thomas Kelly in July 2012
- ✓ KXPOM Regulation Stage 1 commenced on December 7 2012
- ✓ KXPOM Regulation Stage 2 commenced on December 6 2013 (all stage 1 regulations became "Strike Provisions" upon the premises in the Kings Cross Precinct under the terms of the Bill)
- ✓ Introduction of Lockouts for Kings Cross / CBD Precinct premises at 1.30am 7 days per week on 24 February 2014
- ✓ Introduction of 3am last drinks for Kings Cross / CBD Precinct premises on 24 February 2014
- ✓ Kings Cross Licence Freeze implemented in October 2009
- ✓ Introduction of ID Scanners in 2014 into deemed "high risk" premises in Kings Cross
- ✓ Risked based licensing fees from July 1 2014

Kings Cross Precinct Conditions

The introduction of Schedule 4 (Declared Premises) in the NSW Liquor Act 2007 and the more recent Three Strikes Scheme has already seen significant reductions in the assault rate inside of licensed premises, there is currently 1 Kings Cross premises on level 2 of schedule 4 and to date there have been 3 "strikes" issued to Kings Cross premises. There was therefore a strong incentive for premises to effectively manage and regularly monitor their respective required Plans of Management and harm minimisation measures **prior** to the KXPOM or have further conditions imposed.

The introduction of the KXPOM in real terms over arched schedule 4 and imposed a "one size fits all policy" and therefore provides little or no incentive for previously and continued well run premises, this is generally identified in the Liquor Act Review and in the recently completed Citizen Jury final paper recommendation for consideration to the NSW Government.

The strict conditions and increased costs to operate premises via the KXPOM since December 2012 have resulted in a downturn in trade for the local premises and Kings Cross and Potts Point locality in general. The recently released City of Sydney Late Night Management Area Research undertaken in August 2014 report indicated patron traffic had decreased by some 80% in the Kings Cross precinct compared to the initial report undertaken in March and December 2010 and in April 2012.

The introduction of the Lock-Out provision has resulted in substantial further reduction in patron numbers within the precinct and our indication which has been confirmed by the Potts Point Partnership is that this is now also having a flow on effect to many small cafes, restaurants, take-away food stores, backpacker hostels, pharmacies and other general business operators who are also seeing a decline in patron numbers and turnover.

Kings Cross has historically been a late night entertainment precinct with patrons arriving into the area later than most other entertainment precincts; the lock out restriction at 1.30am has simply resulted in patron migration to other areas. This along with the 3.00am cease service provision has resulted in patrons advising premises that there is no point visiting Kings Cross due to the 3.00am cease service which then provides them with transport issues to vacate the area at taxi changeover time.

Kings Cross Licensing Accord Association

Annexure B

Kings Cross Precinct Effects of the Lock-Out Implemented in February 2014

Licensed Premises

The KXLA recently undertook a survey of premises which indicated the downturn in trade since the introduction of the Lock-Outs as between 25% and 70% and all reported having to decrease staff numbers which we understand in total to date is approximately 500 persons. The venues have also had to cut back or reduce operational hours for entertainment, security staff and there is a roll on effect to industry suppliers.

Patrons are simply going to locations outside of the designated precinct zones where Lock-Outs and further restrictions on product supply are not required and where there is not the police resource that are in the Kings Cross and CBD precincts. Further to this we note the latest 6 year Newcastle research from Professor Miller (Deakin University) indicating there is no conclusive evidence to suggest "Lock-Outs" are effective in reducing alcohol related assaults and that 'cease service' was more effective.

- ✓ Reduction in direct staff employment by over 500 employees
- ✓ Reduction in entertainment and contract security staff
- ✓ Reduction in venue turnover reported between 25% and 70%
- ✓ Business failures 12 Licensed Premises
- ✓ Asset value drop for business property owners
- ✓ Substantial increased operational costs since December 2012 (RSA Marshalls, Full CCTV Coverage, Approved Manager costs, RSA Photo- Competency cards, ID Scanners installation and monthly costs, ID Scanners Privacy training and labour costs)
- ✓ Reduction in trading hours
- ✓ Reducing age demographic into the precinct
- ✓ Patron migration to areas without restrictions in place

Non-Licensed Premises

- ✓ Reduction in turnover
- ✓ Landlords reporting group tenant rental distress and business failure
- ✓ Landlords reporting tenants of + 20 years now in distress
- ✓ Business confidence at an all-time low in precinct making it difficult to attract new tenants
- ✓ Asset value drop for property owners

Annexure C

Liquor Amendment (Kings Cross Plan of Management) Bill 2012

Summary of Conditions of Licence for Kings Cross Implemented on 7 December 2012

- ✓ Service of alcohol to cease one hour before closing time on weekends - (superseded by implementation of Lock-Out and Cease service of alcohol laws in February 2014)
- ✓ 'Time-Outs' for 24-hour premises on weekends - (superseded by implementation of Lock-Out and Cease service of alcohol laws in February 2014)
- ✓ Banning of glass during late trading period on any day
- ✓ Banning of certain drinks and other types of liquor sales prohibited during the weekend late trading period (increased to daily condition in July 2014)
- ✓ Requirement for RSA Marshals during weekend late trading period
- ✓ CCTV Systems to be maintained on subject premises
- ✓ 'Round the clock' incident registers to be maintained
- ✓ Additional requirements relating to violent incidents including:
- ✓ Crime scene preservation
- ✓ Exclusion of persons from the premises (i.e. members of Outlawed Motor Cycle and Outlawed Gangs) as determined by the NSW Government
- ✓ Removal of Litter from outside of the premises
- ✓ Promotion of late night transport options
- ✓ Patron and customer responsibility advice (via poster and postcard)
- ✓ Establishment and categorisation of deemed 'high risk venues'
- ✓

Summary of Conditions of Licence for Kings Cross Implemented on 6 December 2013

- ✓ ID Scanning for 'high risk venues' (delayed implementation due to probity issues, implemented in June 2014)
- ✓ Temporary Banning Orders – linked to ID Scanners
- ✓ Long Term Banning Orders – linked to ID Scanners
- ✓ Privacy Training for high risk venue licensees, staff and security guards operating ID Scanners
- ✓ All licensees, staff, crowd controllers and security guards must hold a current recognized RSA Competency Card – effective date 1 March 2013
- ✓ Revocation of RSA Competency Cards for breaches of Privacy or RSA obligations under the new conditions implemented
- ✓ Daily / hourly recording of quarterly alcohol sales data across various reporting categories
- ✓ Hours of Operation Signage / capacity of premises / Licensee and licence information
- ✓ Approved Managers for 'high risk venues'
- ✓ All of the Kings Cross special licence conditions become prescribed offences – 'Strikes' under the Three Strikes Disciplinary Scheme

Summary of Conditions of Licence for Kings Cross Implemented on 24 February 2014

- ✓ Lock-Outs from 1.30am and 3am cease service of alcohol
- ✓ Ban on take-away alcohol sales from 10pm across NSW

Summary of Conditions of Licence for Kings Cross Implemented on 18 July 2014

- ✓ Drink restrictions from midnight increased to 7 days per week
- ✓ Drink limits from midnight increased to 7 days per week for Kings Cross e.g. 4 maximum from midnight until 2am and then 2 maximum from 2am to 3am
- ✓ Bans on Promotional activity discounting drinks designed to be consumed rapidly (drinks cards, flyers, vouchers, social media, website, print media or spruiking)