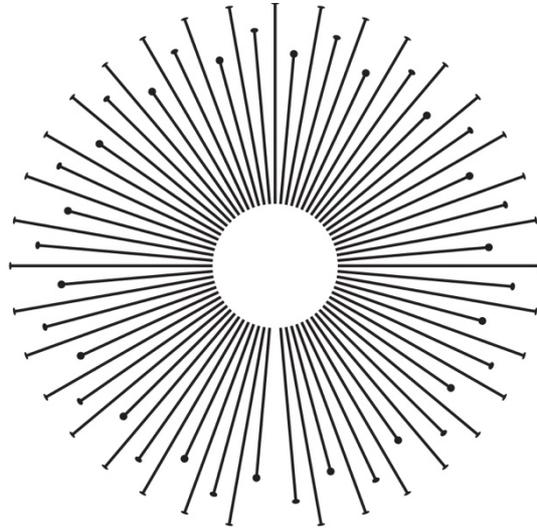


**Submission
No 383**

SYDNEY'S NIGHT TIME ECONOMY

Organisation: The Potts Point Partnership Incorporated

Date Received: 2 July 2019



THE
POTTS POINT PARTNERSHIP

CREATING PARTNERSHIPS WITH BUSINESS AND COMMUNITY

POTTSPPOINTPARTNERSHIP.COM.AU

Submission to the
**NEW SOUTH WALES PARLIAMENT'S
JOINT SELECT COMMITTEE ON SYDNEY'S
NIGHT TIME ECONOMY**

July 2019

1.0 EXECUTIVE SUMMARY

The Potts Point Partnership believes the NSW Government must adopt a new and positive vision of the Kings Cross and Potts Point precincts that will see it revitalised as a world class entertainment destination offering food culture, entertainment and fun.

Our vision of Kings Cross and Potts Point is of a people-friendly place offering safe and accessible entertainment choices for both locals and visitors, vibrant with life both day and night, without the unsavoury character that defined it during the late 20th century and early 2000s.

To achieve this vision the NSW Government must amend the special licencing requirements which act as an economic tariff on the area – dampening activity in Kings Cross to the benefit of surrounding suburbs.

The specific changes we recommended include:

- Immediately removing the requirement for ID scanners in the Kings Cross precinct;
- Extending the lockout deadline to 3.00am for venues with more than 100 patrons, for a period of three years;
- Removing the ban on purchasing spirits/shots after midnight;
- Establishing a 'Good Neighbour' policy to reduce vexatious noise complaints, in cooperation with the City of Sydney
- Establishing a tourism campaign to promote Potts Point (Kings Cross) as Sydney's best-known night time destination to experience
- Reviewing the Medically Supervised Injection Centre location

2.0 XPERIENCE POTTS POINT

– REVITALISING SYDNEY'S PREMIERE NIGHT TIME PRECINCT

When people think of Sydney's nightlife, they think of King's Cross. For generations this area has been the centre of the night time economy, with its entertainment venues, restaurants, clubs, hotels and retailers.

In 2012, in response to a number of acts of senseless violence, the NSW Government placed special licencing requirements on businesses in the area to curb anti-social behaviour, in particular alcohol-fuelled fights.

The objective of these licensing provisions is a noble one – to keep people visiting the area safe. However, they were never meant to dampen commercial activity. They were never intended to cause restaurants to fail or businesses to go broke. And they were certainly never intended to drive economic activity to neighbouring suburbs, at the expense of existing Kings Cross and Potts Point businesses.

Seven years on, we can now see the unintended consequences of the special licencing provisions and how they are stifling the capacity of the area to economically grow and regain its sense of vibrancy.

Th NSW Parliament's review into Sydney's night time economy is an opportunity to recognise the impact the special licencing requirements have had on the area, and to acknowledge that things must change.

Right now, the special licencing provisions are effectively a tariff on Kings Cross and Potts Point businesses. They block and prohibit economic activity. They create an unlevel playing field that favours surrounding suburbs. They make it difficult for companies to be competitive.

No other location in Sydney – or NSW – operates in such a restricted environment. If the NSW Government were to propose a similar 'tariff' around North Sydney, Randwick or Sutherland, the idea would be dismissed as absurd. No sensible government would consider using regulations to disadvantage one part of Sydney to benefit another. Yet this is the reality faced by Kings Cross/Potts Point residents and business operators.

We are recommending a series of solutions to the lockout laws, rather than their outright abolition. By talking to our members we understand which requirements are having the most deleterious impact on their businesses, as well as the ones which residents believe are key to providing a safe neighbourhood.

And we are asking the NSW Government to get behind our vision for a new Kings Cross reinvented as a destination to experience: 'Xperience Potts Point'. As the Kings Cross name has been so tarnished that it now un-marketable for the immediate future. By supporting our solutions for change, it is time to breathe 'life' back into Kings Cross and Potts Point so it can again become an extended centre of Sydney's night time economy. A destination to visit, explore, dine, entertain and experience.

3.0 ABOUT THE POTTS POINT PARTNERSHIP

Established in 2002, from the Kings Cross Business Chamber, The Potts Point Partnership is the local Chamber of Commerce, representing 120 diverse businesses across the 2011 postcode, including retailers, real estate agents, cafes and restaurants and service businesses.

In April 2016¹, we called on the NSW state government to conduct a wide panel review into the impacts of lockouts and to encourage a vibrant and diverse night-time economy. Kings Cross was known as Australia's red light

¹ Potts Point Partnership: Submission regarding the effectiveness of the 1.30am lockouts, 3am last drinks, 10pm take-away liquor laws and the periodic licence fee system

capital. Kings Cross is a destination located in the epicenter of Sydney suburb, Potts Point.

4.0 RESPONSE TO THE TERMS OF REFERENCE

A. MAINTAIN AND ENHANCE COMMUNITY SAFETY

The Potts Point Partnership believes the special licensing requirements have provided an overall benefit to community safety. This is confirmed by the most recent report of the NSW Bureau of Crime Statistics and Research (BOCSAR) report which found a 49 per cent reduction in non-domestic assaults recorded by the NSW Police between January 2009 to September 2016².

While safety improvements are welcome, it has come at the expense of foot traffic and an exodus of businesses. According to the City of Sydney Research³ there are 2,000 fewer pedestrians in Kings Cross at 11.00 pm on a Friday – a drop of 58 per cent compared to 2012. In earlier hours of the morning the pedestrian traffic is down by 80 per cent.

Our 2016 Survey, City of Sydney Late Night Management Areas research and anecdotal evidence from our membership confirms that residents feel safer in the area. This is a benefit to our members as it means local residents are more likely to be out at night, choosing to dine, shop or socialise at local businesses. The support of local residents is more important than ever, given the reduction in foot traffic in the area following the introduction of the lockout laws.

² https://www.bocsar.nsw.gov.au/Pages/bocsar_pages/Alcohol_Related_Violence.aspx

³ City of Sydney, Late Night Management Areas Research: Phase 4,

So while the improvements in safety are welcome, we believe the job is only half done. We need to promote the safer environment in Kings Cross as a way of bringing back people to the area for dining and social experience.

B. MAINTAIN AND ENHANCE INDIVIDUAL AND COMMUNITY HEALTH OUTCOMES

The Potts Point Partnership supports moves which improve individual and community health outcomes. That is why we ask the NSW Parliament to consider the impact the special licencing requirements are having on individual business operators, their families and their employees.

Small business owners, like those operating in the Kings Cross precinct have experienced enormous stress as their livelihoods were threatened by the lockout laws. Many have closed their businesses, unable to keep going a dramatic drop in customers.

The impact of the special licencing requirements on local business owners is a major concern of our organisation. Financial stress, exhaustion, anxiety, doubt as well as isolation from family and friends are all having an impact on the mental wellbeing of small business operators in the area.

We believe the impact of the special licencing requirements go well beyond the economic and have a negative impact of the general wellbeing of businesspeople in the area.

C. ENSURE EXISTING REGULATORY ARRANGEMENTS IN RELATION TO INDIVIDUALS, BUSINESSES AND OTHER STAKEHOLDERS, INCLUDING SYDNEY'S LOCKOUT LAWS, REMAIN APPROPRIATELY BALANCED;

It is impossible to underestimate how much the lockouts and special licensing requirements have adversely impacted on tourism in the precinct.

The special regulations that apply to the Kings Cross area act like an economic barrier that drives patrons away and into the doors of neighbouring businesses.

This current situation is not just unfair, it is also anti-competitive. Business owners in the Kings Cross precinct want the right to compete on a level playing field. And they, more than any other stakeholder, are motivated to create a safe and enjoyable experience for every visitor.

Kings Cross and Potts Point is still an inherently interesting and attractive destination. This ensures the area continues to attract a share of night time patrons. The larger restaurants are the ones doing well, however the entertainment, medium and smaller businesses are struggling.

"The question is: How much better could Potts Point be to experience if a more reasonable licensing regime was in place, and the Government supported a campaign to drive tourists back to the area?"

Exec Chair, Carrington Brigham

A critical first step in achieving a new vision for the precinct is the immediate removal of the ID Scanners which have become a major problem for businesses with alcohol licenses in Kings Cross and Potts Point.

There are dozens of examples of mixed restaurant and bar venues in Bayswater and Darlinghurst Roads that cannot serve food without an ID scanner at their entrance from 9.00 pm. Food is their principal source of revenue, not alcohol. When groups arrive at the restaurant and one does not have their ID on them, the result is that all patrons walk away from the restaurant and their revenue is lost, usually to a restaurant in a neighbouring area.

This is a frequent occurrence, especially among tourists who are either unaware of the requirement or who prefer to keep important documentation such as photo IDs in their hotel rooms when visiting a foreign city. Education and awareness campaigns doesn't ensure people carry their licenses at all times. The ID Scanner requirement also makes no allowance for misadventure such as losing one's ID when on a night out.

Some venues estimate one in every six customers are being turned away as they do not have a suitable form of identification. It happens frequently enough to undermine the economic viability of some restaurants, especially during the colder months where the average turnover is lower.

The need for ID Scanning is increasingly impractical due to new payment technologies. A growing number of diners no longer bring a wallet or purse out with them, preferring the convenience of paying with their Smartphone. As a result, they no longer carry an appropriate form of ID and must be refused entry.

The ID Scanning technology is also a slow process which can create long queues to enter a venue. Many patrons are discouraged enough to leave and find a venue that has no ID Scanner requirements.

Research by Deakin University also raises questions about the effectiveness of ID scanners as a way of reducing violence⁴. Based on reported assaults and emergency room data in Geelong, the research found no evidence of a decline in violence after ID scanners were introduced.

The economic tariff to business with ID scanners is significant too. Every business that is required to have an ID scanner at 9pm, 7 days per week pays a fee of approx. \$4,000 to setup with the vendor and \$5,280 per annum, plus a security resource to manage the machine until the venue closes, with a fee for a training certificate. Some venues require more than one scanner.

Another area which needs reform is the current 1.30 am lockout time. We believe a more balanced approach to the lockout laws would be to extend the deadline from 1.30 am to 3.00 am at larger venues with a capacity of 100 people or more.

An extension to 3.00 am can be applied for the next three years to confirm that it does not contribute to an increase in violent incidence in the area. We believe larger venues have a vested interest in maintaining order and public safety.

Many patrons, especially younger adults, want to enjoy the night-time entertainment offered by other cosmopolitan international cities. The current restrictions make this impossible in Kings Cross, Sydney's premiere night time destination.

Without a 3.00 am lockout requirement, patrons simply leave Kings Cross and Potts Point and move to other non-restricted areas. This again, undermines the ability of local businesses to compete with similar venues in neighbouring areas.

⁴ 'ID scanners in the night-time economy: Social sorting or social order?' by Deakin University researchers Associate Professor Darren Palmer, Dr Ian Warren and Associate Professor Peter Miller.

D. ENHANCE SYDNEY'S NIGHT TIME ECONOMY

The Potts Point Partnership believes the NSW Government must adopt a new and positive vision for the Potts Point (Kings Cross) precinct.

The starting point for this vision must be the removal of the distortions created by the most onerous of the licensing requirements, while maintaining those that have returned a sense of safety to the area. There is a sensible middle ground, which we believe will benefit everyone.

Kings Cross still has a global reputation as a centre for night time activities, despite the impact of the recent restrictions. This can be built on. The NSW Government needs to commit to a campaign to drive tourist activity into the precinct, to 'Xperience Potts Point'. As Potts Point has become the destination of a new vision for the precinct. This will help reverse the economic damage of the last seven years and bring new hope to business operators struggling under the current perception that the area is a 'ghost town' after dark.

The Potts Point precinct can become something special - a people-friendly place, vibrant with life both day and night and without the unsavoury character that defined it during the late 20th century and early 2000s.

With the help of the NSW Government and the City of Sydney, we believe the Kings Cross and Potts Point Precinct can be a world class dining and entertainment district offering safe and accessible choices for both locals and visitors alike.

E. Reviewing the relevance of the Medically Supervised Injection Centre (MSIC) location

The local economy

Businesses that exist close to the MSIC include tobacconists, cafes, fast food, convenience stores, internet services, Woolworths, Holy Moly mini golf, several fitness centres and liquor stores. There are multiple vacant shops, including, but not limited to, 34-36, 36A, 36B and 74 Darlinghurst Road).

Following the lockouts, businesses of all types that exist on Darlinghurst Road ("The Strip") and close to the strip (Bayswater Road, William Street, Victoria Street, Roslyn Street and Kellett Street) have experienced a drop of trade of up to 40%, aligned to the drop in foot traffic following the lockouts and negative perception of the area.

Multiple small businesses informed the Potts Point Partnership that they are losing money and trying to sell their business as they are finding it very difficult to operate. All businesses are trying to increase their trade and attract customers.

Changing area

The shape and demographics of Potts Point (the area immediately surrounding MSIC) are rapidly changing. Presently, residential developments have recently opened these are Omnia (111 Darlinghurst Road Potts Point) and Hensley Hall (37-41 Bayswater Road Potts Point).

See articles here which describe this residential development:

<http://www.domain.com.au/news/lockout-laws-pave-way-for-gentrification-20150930-gjx7gj/>

<http://www.news.com.au/finance/real-estate/another-kings-cross-landmark-nightspot-sells/news-story/e6bccdc3083fb939047a2ea0fead38e2>

Business Feedback

The Potts Point Partnership distributed a survey⁵ in 2016 to local businesses and property owners, in areas around the MSIC. We only accepted data from businesses who knew the injecting room was there.

Based on this survey:

- On average, local business owners **supported** the MSIC to a value of 40%.
- 82% of respondents **do not support** its current **location**.
- 78% of respondents believe it **negatively impacts** their business.

Common verbal feedback provided was that the Centre attracts drug users who loiter on Darlinghurst Road and surrounding streets, with common complaints of loud swearing, aggressive or unpredictable behaviour, spilling hot drinks and leaving rubbish on the street: all of which detracts genuine customers.

The City of Sydney Council's latest intercept survey (2015) in the Potts Point area also revealed some data that visitors perceived Darlinghurst Rd as 'Filthy / Dirty / Messy' (17%), and 'Run down / Dying / Empty shops / Sad' (14%), which supports what local businesses think their customers perceive.

We have copied a selection of the feedback provided to us by local businesses:

1) "My business is in the injection centre's triangle of trouble. Junkies go between the railway station, injecting centre and the bus stop seats near my business. They harass the public, my staff and myself. I have been spat on, head butted, assaulted, verbally abused, had dangerous items and rubbish thrown at me, threatened to have my head

⁵ Potts Point Partnership Business Member survey of the MSIC for NSW Health 2016

cut off, my business burnt down, my windows smashed, etc. My staff and customers have had their fair share of abuse and harassment. Although sometimes entertaining, it is only by sheer (sic) fortune that I have not been involved in a major incident with users of the injecting centre.

We lose many customers and the occasional staffer, who feel unsafe and worried when some of the users of the injecting centre have used its services.

We watch verbal drug deals go down in front of us and the transaction is completed within the injecting centre. Again, police are unable to deal with them once they are in the injecting centre.

I am a supporter of an injecting centre, it has done good things. For example there are very few used syringes found on Darlinghurst Rd, we barely see passed out drugged junkies lying in vacant business doorways, but I do strongly believe it should be located on the hospital grounds, not in the heart of Darlinghurst Rd".

2) "The constant threat to our staff's personal security is comprised daily due to the effects of the illegal substances consumed by the persons who use the services of 66 Darlinghurst Road. The total disregard of these individuals who chose to conduct themselves in a manner that is not socially or law abiding has a negative impact on the amenity of the area and our ability to safely conduct our lawful business. The entire community would benefit if the facility is located near services that could better deal with Medical Health & Mental Health issues arising from the consumption of illegal substances."

3) "While I support the concept of a safe injecting space, the end result is a constant stream of crime and public disturbances from those using the facility and clearly under the influence. As a business operator in the area, the toxic effect of people in this state hanging around outside your business is soul destroying."

4) *"This facility does not actually seem to be helping people to get off drugs as we always see the same faces, it just gives them a place to inject".*

5) *"It has absolutely no impact on our business. The service they provide is absolutely necessary and prevents a host of other issues associated with drug addiction."*

6) *"Kings Cross has hosted the MSIC for a long time and has somewhat suffered for it. One room for the entire city creates a drug infrastructure (supply/dealers) in the local area. It's time to consider options such as a second centre in Cabramatta to take some of the pressure off Kings Cross and allow the area to regenerate. By opening smaller rooms spread throughout the city will lessen impact on one locality".*

One local business owner also explained that a petition with 100 signatures was distributed to City of Sydney Council 4 years ago expressing concern about the injecting room, but no action was taken at that time.

MSIC NEXT STEPS

Based on business feedback and the changing nature of the area, the Potts Point Partnership strongly recommends a thorough community consultation and review of the location of the MSIC.

The majority of businesses do not support the centre in its current location but do support the work it does. Many businesses suggested the location would be more appropriate near a medical facility. Others, now including Western Sydney University suggested additional centres be opened in other areas of Sydney⁶, having noticed many clients of the

⁶Drug users in outer Sydney need another medically supervised consumption room
https://www.westernsydney.edu.au/newscentre/news_centre/more_news_stories/drug_users_in_outer_sydney_need_another_medically_supervised_consumption_room

MSIC arrive by train. We would then recommend a gradual transformation of the existing centre into a rehabilitation clinic.

It is currently located in the main street of a high-density urban environment that is no longer just a late night destination. The area has become more residential and is trying to build a vibrant, diverse 24-hour local economy. Anti-social behaviour that is reported around the centre negatively affects businesses and is likely to prevent new businesses opening.

5.0 RECOMMENDATIONS

The Potts Point Partnership makes the following recommendation to the review on Sydney's night time economy:

- Immediately removing the requirement for ID scanners in the Kings Cross precinct;
- Extending the lockout deadline to 3.00 am for venues with more than 100 patrons, for a period of three years;
- Removing the ban on purchasing spirits and shots after midnight;
- Continuing the stringent process for issuing liquor licenses to venues that cater for more than 100 patrons, including the continuation of the "Cease Service Provisions at 3am" for a further review in 3 years
- Establishing a 'Good Neighbour' policy to reduce vexatious noise complaints, in cooperation with the City of Sydney as a trial that could then be released state wide if proven successful
- Establishing a tourism campaign to promote Potts Point (Kings Cross) as Sydney's best-known night time destination

- Reviewing of the location of the Medically Supervised Injecting Room (MSIC) which is located directly opposite the entrance to Kings Cross Station

6.0 APPENDIX – VERBATIMS FROM OUR MEMBERS

Here's a collection of verbatim responses to the impacts on NSW state government license restrictions from our business' members regarding the night-time economy in Kings Cross and Potts Point:

- a) *"While I was well aware of how difficult it was going to be, and has contingencies to fit, what I didnt expect how bad the foot traffic really was on that part of Darlinghurst road.*

My contingencies included delivery of food to sustain the business and overcome the losses incurred over the weekend. This actually worked - and we were cashflow positive but over 3 months, I saw no increase in the foot traffic and my expenses for the weekend as a venue for performers and djs kept piling up and up. PPCA and APRA, both of which had been accounted for in our budgets decided to rock up one Friday and increase our license fees by 500% over the whole week. It was now a nightclub 24/7 according to them, ignoring the food and no DJs on certain nights.

Given this, as well as other compounding factors, I had to make a decision to stop trading."

- b) *"We're doing extremely well because we're a small bar and don't have red tape restrictions, we can serve shots after midnight and don't have ID scanners."*
- c) *"I'm a Thai Food business but I have to have an ID scanner because my venue can hold over 200 people, after 9pm 1 in 5 customers turn away because they don't have ID"*

- d) *"Rent is high, customer base is low. This means higher prices to make ends meet but then less trade due to higher prices. It's a catch 22. A lot of people are struggling to have enough disposable income to spend consistently in this area and as a result this market contraction closes businesses. Will be either a recession to correct things or a very long idling of Potts Point as the market corrects. My guess is the second, a sustained many years of closing business, failing new business and struggling business with a few doing well here and there."*
- e) *"It's really tough out there now, what is the state government going to do to help us struggling businesses? They caused this!"*
- f) *"The only reason I closed down Barrio Chino was due the scanners. It would literally keep me up at night. Having to turn away birthday groups coming in for the dinner cos 1 guest didn't have ID."*
- g) *"It took us months to seek exemptions with Liquor and Gaming and with our landlord to change our license. This cost us so much time and we're a cafe."*
- h) *"We regularly have groups of people turn up too for dinner, and one in the group won't have ID, so no one comes in. It's atrocious really. I have to turn away so much business. And we have a lot of elderly people who want to come here, but they still seem to be viewed as a potential violent risk, even though some of them couldn't run 10 paces."*
- i) *"We hoped to attract a lot of locals but a lot of them balk against the ID scanner as they don't like to be treated as potential criminals, Also, we only have one scanner and it's so slow, so it's hard to actually get people in when they arrive. People always say you have to adapt to the times in business, but that's proved absolutely impossible, this situation is literally ridiculous."*

j) *"We need to have an area where there's a variety of night-time activities which will depend on relaxing the lockout laws, and getting rid of the scanners which are a real invasion of privacy, they continue to affect a lot of businesses here. Kings Cross will never return to what it once was, but it needs to move in a positive direction. Melbourne has South Yarra which is very similar in some ways, but Kings Cross can only thrive in Sydney with these urgent changes."*

7.0 CONTACT

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Dated: July 2nd, 2019