



**Kings Cross Licensing Accord Association Incorporated**

**SUBMISSION ON THE PROPOSED LIQUOR REGULATION 2018  
(THE 'PROPOSED REGULATION')**

**24 July 2018**

**NSW LIQUOR ACT 2007 and REGULATIONS**

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# Kings Cross Licensing Accord Association

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## Executive Summary

### Boundary Area for the Kings Cross Licensing Accord

The Kings Cross Licensing Accord boundary incorporates the demographic encompassed by the Kings Cross Police Area Command. The area includes Kings Cross, Woolloomooloo, Potts Point, East Sydney, Darlinghurst, Elizabeth Bay and Rushcutters Bay. The area has approximately 265 licensed premises within the demographic.

### Change in Local Amenity and Environment – Kings Cross Precinct

The Kings Cross Precinct environment has changed considerably since the introduction of the Kings Cross Plan of Management in December 2012. Many late trading venues have closed and, new residential developments have been completed in Bayswater Road and Kellett Street.

The historic nature of the entertainment precinct is continually changing toward a balance between commercial business and residential development. In fact, of the 35 late night high risk category venues listed by NSW Liquor and Gaming for the precinct 20 of the venues have closed with visitation to the area reducing significantly, also the previous patron capacity has been reduced by over 50%, or over 5,000 patrons.

Since 2012 there has also been considerable improvements to transport availability and options as well as much improved public space management which is represented by all key stakeholder groups and hosted by the City of Sydney Night Time Operations Group.

In effect Kings Cross is no longer the late-night destination it was historically, and we have made recommendation that the Kings Cross Precinct be considered for a more consistent parity of conditions to the Sydney CBD Precinct, we have also made recommendation on some of the current regulations for the Kings Cross Precinct.

### Licence Types in the Kings Cross Police Area Command / Kings Cross Prescribed Precinct

#### Kings Cross Precinct – Kings Cross Plan of Management

The Kings Cross Plan of Management which commenced in December 2012 includes Kings Cross and part of the Potts Point and Elizabeth Bay precincts. Potts Point and Elizabeth Bay do not have any late trading venues and are primarily on-premise licences / restaurants.

There are approximately 100 liquor licences in the defined Kings Cross Precinct with special licence conditions which include Hotels, Package Liquor Licences, Producer / Wholesaler and On-Premise Licences. The area incorporates Ward Avenue in the east to Victoria Street in the west, Manning Street in the north to Kings Cross Road in the south.

#### Kings Cross Police Area Command – CBD Plan of Management

The majority of licences approximate 165(62%) located in the Kings Cross Police Area Command boundary operate under the special licence conditions for the CBD Plan of Management which commenced on 30 January 2014, with the lockout and cease provisions taking effect on 24 February 2014. The CBD Plan of Management includes Darlinghurst, East Sydney, Woolloomooloo and parts of Potts Point as defined by the Sydney CBD Entertainment Precinct Map. Licence holders in Rushcutters Bay are not included in either Plan of Management, albeit located in the police area command boundary.

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## Liquor Regulation 2008

### Division 3 Part 5A Kings Cross Precinct / Division 2 Part 5B Sydney CBD Entertainment Precinct

#### **Kings Cross Precinct – Continued Considerable Reductions in Alcohol Related Crime**

The Accord requests a review of unnecessary burdens upon the venues due to the continued considerable reductions and record low levels in alcohol related crime, additional and continuing venue closures and the burdensome costs associated to the Kings Cross Precinct to comply with the current precinct regulations which commenced in December of 2012.

#### **Parity Request Recommendation**

The Accord requests a review of the Kings Cross Precinct Plan of Management Regulation 2012/2013 special licence conditions for parity to the Sydney CBD Entertainment Plan of Management Regulation 2014 to ensure that harm mitigation conditions are balanced and consistent for one defined precinct rather than the current two. This is confusing, and we now have venues in the accord boundary that are captured by both sets of conditions and current NSW BOCSAR data incorporates statistics for the whole of the Kings Cross Police Area Command, rather than reporting separately on the defined Kings Cross Precinct.

The Accord recommends the Kings Cross and CBD Precincts should now be treated more consistently regarding the special licence conditions that apply in each precinct.

#### **Recommendation 1**

Request for a review on further parity consistency between the Kings Cross Precinct and Sydney CBD Entertainment Precinct Regulations for Kings Cross venues given the further considerable reductions in alcohol related crime in the Kings Cross Precinct and in consideration of a significant change of environment in the Kings Cross Precinct.

## **Part 5A Division 2 Clause 53U**

### **Kings Cross Precinct ID Scanners Time of Use**

#### **Costs to Operate ID Scanners**

ID Scanners require prescribed and approved persons to operate them that have undertaken privacy training, the operation of the scanners therefore require dedicated personnel which over a 12-month period costs approximately \$100K for the operation of one scanner. Operation of one scanner is inadequate for larger venues to reduce queuing time in peak periods and their costs increase exponentially to operate the scanners, recently reported up to \$150K.

A review of the ID Scanner visitation by day indicates that the costs to operate for a seven-day period do not warrant their operation for seven days per week.

#### **Visitation by Day to High Risk Venues - Source Patron Scan (Approved Supplier by NSW Government)**

#### **Unique Patron Visitation Numbers – Time Period – June 2014 – March 31, 2016 – ID Scanner De-Identified Data on a Group Venue Basis**

- The ID Scanner implementation commenced in June 2014
- There were 29 Venues required to scan on Commencement
- There remain 20 Venues currently scanning with the other 9 (31%) venues now closed
- We have provided a daily venue visitation based upon 29 venues as a basic example of visitation as it has significantly dropped after the nine venues closed, this is daily entries after 9pm

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- Average number of patron visitation by the day since commencement is listed below, the actual weekend visitation has dropped substantially since commencement with the closure of the nine venues, however for this report we are demonstrating the reduced patronage on weekdays, that we believe do not warrant the expense to operate scanners on those days, due to low risk factor and visitation.
- The numbers further demonstrate the reduced visitation and patron numbers that have occurred in Kings Cross since the introduction of lockouts and ID Scanners.

Day of Week	Total Visits	Daily Average	Daily Ave Per Venue (29 venues after 9pm)
Monday	99788	1050	36
Tuesday	135589	1427	49
Wednesday	197909	2083	72
Thursday	172508	1815	62
Friday	487857	5135	177
Saturday	852561	8974	309
Sunday	205753	2165	74

**NB: Updated de-identified data requests for reporting purposes was not able to be sourced by the Kings Cross Licensing Accord via key-stakeholders. Since this report to March 2016 a further 5 high risk venues that were previously operating ID Scanning have also closed.**

The current operating times of 7 days per week are onerous and create a high additional operating cost for venues and is a burdensome unnecessary expense. The Sunday to Thursday visitation data after 9pm does not support the requirement to utilise scanners on those days.

The Accord recommends that the requirement to operate ID Scanners be in accordance with NSW BOCSAR statistics which record the peak times for alcohol related violence is between 9pm and 3am on Friday and Saturday nights. We recommend ID Scanner times be in the peak trading period for Friday and Saturday nights from 9pm and 3am and on Sundays that precede public holidays.

### **Recommendation 2**

That the use of patron ID Scanners be amended and limited to Friday and Saturday nights and Sundays preceding a public holiday.

### **Part 5A Division 1 Clause 53C**

#### **Lock outs for Certain Subject Premises**

##### **Lock-Outs at 1.30am**

Whilst the implementation of the ID Scanners was supported by the Kings Cross precinct as part of Stage Two of the KXPOM, the implementation of the Sydney CBD measures has added further conditions upon Kings Cross high-risk premises, which we believe has resulted in an 'imbalance' for the premises and a 'tipping point' which is why so many venues have closed.

The Accord maintains that the double measure of ID Scanners and Lock-outs operating in tandem has 'tipped' the volume of additional safety measures for the precinct to breaking point and made previously viable venues unprofitable with no regard for their compliance history or commitment to the community – the "One Size Fits all" policy approach.

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In Kings Cross lockouts should be measured against the reduced patron visitation, volume of business closures, vast reduction of 5000 persons in patron capacity due to closures and reduced trading hours, plus the implementation of ID Scanners to determine if the lockouts remain an appropriate tool in reducing alcohol related crime.

Our view is that ID Scanning is a more stringent measure than lock-outs and in effect Kings Cross has a lock-out imposed from 9pm, 7 Days per week if the person attempting entry does not have suitable and acceptable ID.

We recommend removal of the lock-out provision for the Kings Cross Precinct in consideration of the stringent dual harm mitigation measures currently in place with the operating of the ID Scanners.

### **Recommendation 3**

Remove the lockout conditions for all Kings Cross Precinct venues on the days they operate ID Scanners to be formally replaced with ID Scanning in peak weekend periods until cease service time and lockouts be removed as a 'One Size Fits all Policy'

### **Part 5A Division 1 Clause 53G**

#### **RSA Marshals**

The requirement to engage RSA Marshals during the supervised trading period for Class 1 or 2 venues is no longer effective and onerous to Kings Cross Precinct venues. The precinct environment is completely different to when the regulation was implemented, and the alcohol related assault levels are at a record low level. There are no venues in Schedule 4.

### **Recommendation 4**

1. The requirement to engage RSA Marshals during the supervised trading period be amended to parity and consistency with the Sydney CBD RSA Marshal regulation per Part 5B Division 2 Clause 53ZD of the current regulation

Or

2. The requirement to engage RSA Marshals during the supervised trading period be reviewed based upon a venues history of compliance on an individual exemption application basis under clause 53P of the regulation

### **Part 5A Division 1 Clause 53GA**

#### **Appointment and Presence of Approved Managers for High Risk Venues**

The Accord understands that the appointment of Approved Managers was to raise the compliance standards of late trading premises via police checks for criminal records, probity of applications and to undertake that an approved manager was a fit and proper person with the appropriate responsibility to manage the venue from 9pm each day until 7am the following day or until the venue ceases trading when the licensee was not present.

The processing time for approved managers is sometimes over 4 weeks, this places venues under unreasonable operational pressure if they have had an approved manager leave suddenly and places the venue at increased risk of further penalty or requires the licensee fill all shifts after 9pm each day until an appointment is approved, this is an unreasonable expectation of any business.

We recommend that the requirement for approved managers needs to be removed. The Accord considers the regulation ineffective in the current context, given changes in Kings Cross visitation and operating conditions since originally introduced.

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Venues also report a reluctance of potential staff applications for Managers to have to seek Approved Manager Approval prior to being able to manage a premise after 9pm, given it is not a requirement elsewhere in NSW.

<b>Recommendation 5</b>
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Delete Clause 53GA of the regulation
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## **Part 2A Clause 5G**

### **Periodic Liquor Licence Fees - Location Risk Loading Element**

The location risk loading element is presently only required in Kings Cross and the Sydney CBD as prescribed precincts. The Accord believes the additional loading is an unfair and onerous cost to premises especially given the increased costs to operate in these precincts as well as considering the major loss of business due to the volume of precinct restrictions.

<b>Recommendation 6</b>
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Delete Clause 5G of the current regulation
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## **Part 5 Division 1 Clause 39C (4)**

### **Expiry and Renewal of Recognised RSA Certifications**

The Regulation stipulates that per clause 39C (5) that licensees, staff, security personnel and RSA Marshals that work in Kings Cross are not able to renew their RSA Competency Card on expiry via a refresher course and must complete the full RSA course every five years.

The Kings Cross Precinct has a high turnover of staff including staff that work for multiple venue groups and work across the CBD, Kings Cross and other metropolitan locations. The Accord does not believe the regulation can be effectively managed and that renewal of RSA Competency Cards via a refresher course should be consistent for all current card holders.

<b>Recommendation 7</b>
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Delete clause 39C (4) of the current regulation
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## **Part 5A Division 1 Clause 53H (1) (b)**

### **CCTV Systems to be maintained on subject premises**

The clause requires the framerate for CCTV changed to 10, rather than 6 frames per second. The Accord requests that the framerate be reviewed as building increased capacity should also be fully reviewed with pixel quality capability to achieve a suitable outcome.

<b>Recommendation 8</b>
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Review clause 53H (1) (b) of the regulation
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