

ITEM 3

PUBLIC EXHIBITION - DRAFT WOLLONGONG CBD NIGHT TIME ECONOMY COUNCIL POLICY

The Wollongong CBD Night Time Economy (NTE) has evolved significantly over recent years with ongoing growth in the number of new cafes, restaurants and small bars, adding to the cosmopolitan cafe style of Wollongong as it is today. At the same time alcohol related crime has continued to fall, whilst increased venues and significant public and private investment has resulted in increasing residential and employment opportunities in the city.

The NSW Government has also continued to evolve its NTE policy settings over recent years and local operators are seeking more clarity from Council around planning matters, particularly hours of operation for smaller licensed venues. NSW Liquor and Gaming already provides default operating hours until 2am for small bar licences, subject to local development consent. Given this sector has been severely impacted by COVID-19 restrictions and closures, this project has the potential to contribute to the city's recovery post COVID-19.

The draft NTE policy seeks to provide clarity to local operators regarding operating hours permitted in the CBD and development application requirements for these businesses, whilst encouraging a diverse NTE and supporting low impact businesses. Targeted preliminary consultation has been undertaken, including workshops with relevant Council divisions and Wollongong Police. The policy was well received and has been amended to reflect feedback.

This report seeks Council's endorsement to proceed to public exhibition of the policy.

RECOMMENDATION

Council endorse the public exhibition of the draft Wollongong CBD Night Time Economy Council Policy for a period of 28 days.

REPORT AUTHORISATIONS

Report of: Sue Savage, Manager Community Cultural + Economic Development
Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

ATTACHMENTS

- 1 Draft Wollongong CBD Night Time Economy Council Policy

BACKGROUND

Since 2012, 110 new food and drink venues have commenced operating in the Wollongong CBD. Over this time the latest crime statistics from the NSW Bureau of Crime Statistics and Research (BOCSAR) show that incidents of Alcohol Related Assault (non-domestic) occurring during the night (6pm-6am) per 100,000 population has decreased at a rate of 8.0% per annum.

The majority of businesses that comprise the NTE require approval from Council, therefore, the operating conditions are largely dictated through the development assessment process. Within our current development control plan there is no formal framework for the assessment of appropriate hours of operation, acoustic impacts or guidance as to appropriate clustering of like businesses as they relate to the Wollongong CBD.

Appropriate hours for businesses seeking to trade beyond 10pm are determined through consultation with Wollongong Police, who have held the position that new food and drink businesses are not permitted to trade beyond midnight, irrespective of the land use.

The context in which this assessment takes place is an environment in which there are 20-25 licensed venues already operating beyond midnight, all benefitting from historic approvals. Most of these venues are large established pubs, registered clubs and nightclubs.

This evolution of Wollongong's NTE reflects the CBD's broader transformation. The Wollongong CBD will experience a further uplift in residents resulting from several major developments coming online in the months ahead. This will be further supported by the 36% uplift in new A-grade office accommodation currently under construction within the CBD, which will also underpin the potential for further employment growth, in line with the broader Economic Development Strategy.

Creative Wollongong 2019-2024 contains 22 action items specific to 'Our City After Dark'. Specific action items include; a commitment to develop a planning and policy framework to support the ongoing evolution of the evening economy, a review of hours of operation for small bars in the CBD and an investigation of incentives to encourage later trade of retail and other businesses beyond 5pm.

Council is also an active member of the Night Time Economy Councils Committee which advocates to the NSW Government on NTE related policy matters, who have also made a recent submission to the NSW Government with a range of initiatives to support the sector in a post COVID-19 recovery phase.

The importance of the NTE is also recognised in Council's Economic Development Strategy 2019-2029, which includes the following planning related action item (5.4): 'Develop a planning and policy framework to support the ongoing evolution of Wollongong's evening economy.'

At a state level, in 2018 the NSW Government published the 'Guide for establishing and managing Night Time Economy uses'. The guide reinforced the importance of the NTE with regard to economic, community and cultural values. The guide provided an encompassing framework of terms and references, notably defining the period of 11pm-2am as 'Night', as opposed to the preceding 'Evening' and later 'Late Night' periods.

PROPOSAL

A draft Wollongong CBD Night Time Economy Policy has been developed and is proposed to be put on public exhibition for 28 days.

The policy specifically targets low impact venues and businesses in limited land use zones and establishes operating hours and DA requirements for these businesses. The policy incentivises cultural contribution to the NTE via consideration of extended hours for those businesses which provide a culturally valuable offering, besides the service of food and drink.

The policy effectively permits certain businesses to operate until 2am on certain nights of the week, provided they meet zoning and residential interface criteria. This aligns with the current NSW Liquor and Gaming Small Bar licensing provisions and the defined 'Night' period provided in the NSW Government's 'Guide for establishing and managing Night Time Economy uses'. The policy provisions would be considered in the assessment of a development application, and approval conditioned accordingly.

The scope of the policy is dictated by the Wollongong Local Environmental Plan 2009 (LEP) Land Use Zones, applying to the Wollongong City Centre only and the B3 Commercial Core, B4 Mixed Use and SP3 Tourist Zones. These areas represent the established NTE areas in the LGA and represent least risk for impacts on existing residents.

The policy applies to certain land uses listed in the LEP but excludes pubs and registered clubs due to potential for high patron numbers and established impacts associated with these uses. The hours of operation for pubs and clubs would be considered on merit in consultation with Wollongong Police. The policy seeks to benefit those businesses which have been the catalyst for the evolution of the NTE in recent years.

The policy introduces the new land use term, 'Cultural Venue', for consideration in the assessment of operating hours. The term refers to a venue or business which offers additional services beyond the service of food and drink. Extended hours of operation are potentially available to these businesses, on the basis that they provide a cultural contribution to the Wollongong CBD. The intent of this inclusion is to incentivise the further diversification of the NTE, not solely based on liquor licence-oriented activity.

While the initial focus has been on smaller licensed venues, it was envisaged the policy would support and encourage appropriate later trading for non-liquor-based activities (including retailing) in the

Wollongong CBD. This will help to broaden and diversify the CBD’s night time offer, as well as supporting the growing inner-city population’s access to services.

The policy also clarifies development application requirements, provides a framework for trial periods, defines residential interface requirements and provides criteria for plans of management review.

CONSULTATION AND COMMUNICATION

Internal engagement began with the night time economy cross divisional workshop on 26 February 2020. Post workshop, both the Community Cultural and Economic Development and Development Assessment Certification divisions have had several discussions over the progression of the draft policy.

Targeted internal and external consultation has been undertaken in review of draft policy.

An internal workshop was facilitated on 23 July 2020 which included representation from across Council. No objections were raised, rather, clarification of the application of the policy to specific scenarios including temporary events and function centres, where it was confirmed the policy would apply in these instances.

A meeting was held with the Wollongong Crime Prevention Officer and Licensing Sergeants on 18 August 2020 at Wollongong Police Station. The policy was broadly supported with feedback related to consideration of post-midnight lockouts, revised terms referencing and a clarification of plan of management reviews. The draft policy has been amended accordingly.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 goal two "We have an innovative and sustainable economy". It specifically delivers on the following:

Community Strategic Plan	Delivery Program 2018-2021	Operational Plan 2019-20
Strategy	3 Year Action	Operational Plan Actions
2.3.2 Continue to build Wollongong as a vibrant, modern city with a revitalised city centre and an active evening economy.	2.3.2.1 Market and promote events in the city centre.	

SUSTAINABILITY IMPLICATIONS

The draft NTE policy has been informed by consultation across Council, including the Planning and Environment Division. The policy scope and provisions encourage the clustering of NTE businesses and seeks to reduce reliance on private car use by capitalising on public transport, bicycle and walkability options in the Wollongong CBD.

The policy also requires businesses to consider waste management procedures in the preparation of their plan of management.

RISK MANAGEMENT

The primary risks associated with the exhibition of the policy relate to the acceptance of new venues operating beyond midnight.

Constructive engagement has been undertaken with relevant stakeholders including Wollongong Police and Council’s Community Safety Officer, both of which have been broadly supportive of the policy.

The support of the Wollongong CBD business owners and residents will be determined through the public exhibition process.

CONCLUSION

Council is committed to ensuring a vibrant NTE in the Wollongong CBD.

The draft NTE policy responds to the action items contained in Creative Wollongong 2019-2024 and the Economic Development Strategy 2019-2029 and has been amended to reflect feedback from consultation undertaken thus far. This draft policy provides the opportunity to increase economic and activation outcomes for the city in the night time realm.



WOLLONGONG CBD NIGHT TIME ECONOMY COUNCIL POLICY

ADOPTED BY COUNCIL: [TO BE COMPLETED BY GOVERNANCE]

PURPOSE

Council determines the operating hours for businesses seeking to trade at night in the Wollongong CBD through the development assessment process.

Whilst businesses trading at night have the potential to create environmental and social impacts, this policy recognises that many businesses are low impact premises that make an important contribution to the diversity and vitality of Wollongong's Night Time Economy.

This policy seeks to provide clarity regarding appropriate locations and hours of operation for these businesses.

POLICY INTENT

- Establish appropriate hours of operation for businesses in the Wollongong CBD.
- Concentrate low impact businesses which trade at night in appropriate locations.
- Provide clarity to proponents, regulatory bodies and the community regarding trading at night.
- Mitigate potential impacts of businesses trading at night on residents and other business.
- Establish requirements for development applications for businesses seeking to trade at night.

The main objectives of this policy are to:

1. Enable the ongoing cultural evolution of the Wollongong CBD Night Time Economy.
2. Provide a consistent, clear and transparent assessment process for proponents.
3. Encourage a safe Night Time Economy that is comprised of vibrant and diverse businesses.
4. Foster good relations between residents of the Wollongong CBD and businesses which trade at night.
5. Concentrate appropriate venues within Wollongong LGA's established night trading precinct.

WOLLONGONG 2028 OBJECTIVES

This policy supports the following Wollongong 2028 objectives:

- We have an innovative and sustainable economy
- We have a creative, vibrant city

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COUNCIL POLICY

SCOPE

This policy applies to land zoned B3 Commercial Core, B4 Mixed Use and SP3 Tourist within the Wollongong City Centre, as defined by the Wollongong Local Environmental Plan 2009.

This policy applies to businesses seeking to operate beyond 10pm, including the following land uses; Amusement centre, Cultural Venue, Entertainment facility, Function Centre, Information and education facility, Kiosk, Markets, Recreation Facility (Indoor), Recreation Facility (Major), Restaurant or café, Retail premises, Shop, Small bar and Take away food and drink premises. See APPENDIX 1 – DEFINITIONS for explanation of the applicable land uses.

This policy also applies to temporary and mobile land uses, including; special events, pop-up venues and mobile food and drink outlets.

This policy does not supersede the provisions of the Liquor Act 2007 or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 with regard to hours of operation.

POLICY

1 OPERATING HOURS

Businesses may operate within the maximum operating hours listed in Tables 1 and 2, subject to development assessment.

Table 1: Operating Hours – General

LAND USE ZONE	INDOOR HOURS	OUTDOOR AREA WITHOUT RESIDENTIAL INTERFACE	OUTDOOR AREA WITH RESIDENTIAL INTERFACE
B3 Commercial Core	2am <i>Thursday Friday Saturday only</i>	2am	12am (midnight)
B4 Mixed Use SP3 Tourist	2am <i>Friday and Saturday only</i> <i>Trial Period</i>	12am (midnight) <i>Trial Period</i>	10pm

Table 2: Operating Hours – Cultural Venue

LAND USE ZONE	INDOOR HOURS	OUTDOOR AREA WITHOUT RESIDENTIAL INTERFACE	OUTDOOR AREA WITH RESIDENTIAL INTERFACE
B3 Commercial Core	2am	2am	2am <i>Trial Period</i>
B4 Mixed Use SP3 Tourist	2am <i>Trial Period</i>	2am <i>Trial Period</i>	12am (midnight)

2 RESIDENTIAL INTERFACE

A venue or premises will be considered to have a residential interface where existing approved residential accommodation is located on an adjoining or adjacent site, or where the development site adjoins a residential zone.

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An acoustic report may be required where an application proposes to operate until or beyond 12am (midnight) and has a residential interface.

The report must be prepared by a member of the Australian Acoustic Society or the Association of Australian Acoustic Consultants and be submitted with the development application. The report must assess the noise both indoor and outdoor and recommend a suitable attenuation plan to meet applicable noise criteria provided by the NSW Environmental Protection Agency, Independent Liquor & Gaming Authority and Liquor & Gaming NSW.

4 TRIAL PERIOD

Where potential impacts of night trading are undetermined and a trial period is deemed necessary, a condition of consent will be placed on any consent issued limiting the operation within proposed hours to between 12 – 24 months. At the cessation of the trial period the hours will revert to reduced hours.

The applicant may apply to modify the consent to remove or extend the trial period. The assessment of the trial period will be based on;

- Site inspections by Council officers during the trial period.
- Consideration of formal customer complaints to Council.
- Submissions made during exhibition period.
- Consultation with Wollongong Police.
- Relevant crime statistics.

5 DEVELOPMENT ASSESSMENT

The businesses to which this policy applies generally require development consent and an application made under Part 4 of the *Environmental Planning and Assessment Act 1979*. Part 4 of the Act provides the matters for consideration in the assessment of such an application.

In addition to the hours provided in Tables 1 and 2, the assessment of operating hours will be based on:

- Proximity to residential development, sensitive land uses and other late trading premises.
- Impact on acoustic amenity.
- Scale of proposal and patron capacity.
- Suitability of Plan of Management.
- Safety, security and crime prevention impacts on site and the public domain.
- Accessibility of transport options.
- Potential Social impacts.
- Submissions made during exhibition period.
- Consultation with Wollongong Police.
- Cultural contribution to the Night Time Economy.

6 PLAN OF MANAGEMENT

A Plan of Management will be required to be submitted with the development application which seeks to operate until or beyond 12am (midnight).

The Plan of Management should be developed in consultation with the Wollongong Police and must include information that addresses the following matters:

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ALL LAND USES

- Description of the primary use of the premises as well as any secondary or ancillary use.
- Hours of operation for all indoor and outdoor areas.
- Maximum patron capacity.
- Staff numbers.
- Security measures, including security, CCTV, visual surveillance and lighting.
- Noise management measures, including internal and outdoor areas.
- Waste management, including storage and disposal procedure.
- Emergency procedures.
- Consultation undertaken in development of this plan of management.

LICENCED VENUES ONLY

- Incident management system.
- Complaint management system.
- Current or proposed liquor licence details.
- Management of queuing outside the premises, including measures to mitigate impacts on local amenity and use of the footpath.
- Management of patron behaviour when leaving the premises, including measures to preserve local amenity.
- Management of patrons whom are intoxicated, violent, refused service or asked to leave.
- For venues operating beyond midnight, consideration of 12am or 1am last entry policy.

Council may request further information regarding the management of premises if it is considered that the proposal will adversely impact on the amenity of the area or as required by the Wollongong Police.

The Plan of Management is to be reviewed on an annual basis in consultation with the Wollongong Police. The consultation is to be commenced at least three months before the end of the annual period.

ROLES AND RESPONSIBILITIES

ROLE	RESPONSIBILITY
Development Assessment and Certification Development Project Officer	Consider provisions of policy in assessment of development applications.

RELATED POLICIES AND PROCEDURES

- A City for People
- Environmental Planning and Assessment Act 1979
- Liquor Act 2007
- NSW Government - Guide for Establishing and Managing Night Time Economy Uses
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- Wollongong Development Control Plan 2009
- Wollongong Local Environmental Plan 2009

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APPENDIX

1 DEFINITIONS

Note: With exception of ‘cultural venue’, the listed land use definitions are consistent with those contained in the Wollongong Local Environmental Plan 2009.

Amusement centre	means a building or place (not being part of a pub or registered club) used principally for playing— (a) billiards, pool or other like games, or (b) electronic or mechanical amusement devices, such as pinball machines, computer or video games and the like.
Business premises	means a building or place at or on which— (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or (b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.
Cultural Venue	means a venue or premises otherwise listed in this policy, that provides an offering that contributes to the cultural diversity of the Wollongong CBD, beyond the service of food and drink. This can include art, museum, recreation, live music, theatre, entertainment and alike.
Entertainment facility	means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.
Function Centre	means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.
Information and education facility	means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.
Kiosk	means premises that are used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.
Market	means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.
Recreation Facility (Indoor)	means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley,

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	ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.
Recreation Facility (Major)	means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.
Residential accommodation	means a building or place used predominantly as a place of residence, and includes any of the following; (a) attached dwellings, (b) boarding houses, (c) dual occupancies, (d) dwelling houses, (e) group homes, (f) hostels, (g) multi dwelling housing, (h) residential flat buildings, (i) rural workers' dwellings, (j) secondary dwellings, (k) semi-detached dwellings, (l) seniors housing, (m) shop top housing, but does not include tourist and visitor accommodation or caravan parks.
Restaurant or cafe	means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.
Shop	means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop and neighbourhood supermarket, but does not include food and drink premises or restricted premises.
Small bar	means a small bar within the meaning of the <i>Liquor Act 2007</i>
Take away food and drink premises	means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.

APPROVAL AND REVIEW		
Responsible Division	[Name of Division]	
Date/s adopted	<i>Executive Management Committee</i> [updated by policy owner]	<i>Council</i> [DD Mmmm YYYY]
Date/s of previous adoptions	[Dates of previous adoptions]	
Date of next review	[Two years from last adoption]	