



ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (VIBRANCY REFORMS) BILL 2024

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

The Environmental Planning and Assessment Amendment (Vibrancy Reforms) Bill 2024 (**Bill**) proposes amendments to the *Environmental Planning and Assessment Act 1979* to require a consent authority (such as a council) to consider new 'Vibrancy Guidelines' when assessing applications to extend the hours of operation of food and drink premises in particular areas with low residential populations.

The recent decision of Northern Beaches Council to refuse an application to extend the trading hours of The Joey's restaurant has highlighted the need for reform to require councils to consider vibrancy as part of the merit assessment process.

Objectives: What is the policy's objective couched in terms of the public interest?

The NSW Government is committed to supporting venues in NSW to reach their full entertainment, economic and creative potential, especially at night.

The objective of the Bill is to ensure that consent authorities are required to consider Vibrancy Guidelines as part of the usual merit assessment process. The Bill will provide certainty to the community and industry about the Government's vibrancy agenda but will not override the usual merit assessment process. Applications for extended hours of operation will continue to be decided on a case-by-case basis, with regard to all relevant considerations.

Options: What alternative policies and mechanisms were considered in advance of the bill?

The Government considers that the policy is best implemented by legislative amendment.

A State Environmental Planning Policy (**SEPP**) or amendment to the *Environmental Planning and Assessment Regulation 2021* could also be used to achieve the policy intent of the Bill. However, the Bill was preferred as it will provide increased certainty to consent authorities, the hospitality industry and communities.

Analysis: What were the pros/cons and benefits/costs of each option considered?

The Government considered developing a SEPP to amend the provisions of particular council local environmental plans to require the relevant local council to consider Vibrancy Guidelines when determining an application for a venue within their local government area. However, a more consistent State-wide approach to considering vibrancy was preferred.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

If enacted, the Bill will commence on proclamation. This will provide the opportunity for the Vibrancy Guidelines to be developed, in consultation with stakeholders and Government agencies.

Once finalised, the Guidelines will be issued by the Planning Secretary and published on a NSW Government website.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The Bill has been prepared by The Cabinet Office and the Parliamentary Counsel's Office in consultation with the Department of Planning, Housing and Infrastructure and the Office of the 24-Hour Economy Commissioner within the Department of Enterprise, Investment and Trade.

The Vibrancy Guidelines will be issued by the Planning Secretary, after consultation with the 24-Hour Economy Commissioner. They will provide for various matters to be considered in determining applications for extended trading hours. Stakeholders will be consulted in relation to the development of the Vibrancy Guidelines.