

**Submission
No 761**

SYDNEY'S NIGHT TIME ECONOMY

Organisation: Woollahra Municipal Council

Date Received: 4 July 2019

Woollahra Council submission to the Joint Select Committee on Sydney's night time economy

Submission

Woollahra Council supports a vibrant but suitably regulated night-time economy and on 13 May 2019 resolved to exhibit the following draft policy statement on the night-time economy with regard to our local area:

Draft Policy statement

Woollahra Council supports an active and safe night-time economy that contains a diverse range of uses and appeals to different age groups. As part of this diversity Council recognises the important role of licensed premises and the sector's contribution to the vitality and vibrancy of the centres at night.

In the Woollahra Municipality night-time economy businesses generally operate in centres comprising a mix of commercial and residential uses. Redevelopment within these centres is resulting in increased residential uses, and Council anticipates this will continue.

It is therefore important that businesses operating at night do so in a manner that is responsible and complementary to Council's policy of encouraging mixed uses within centres. Council acknowledges that residents living in centres will generally experience a higher outdoor ambient noise environment than those living in low density residential areas.

However Council does not condone intrusive and unreasonable noise levels associated with the night-time economy, particularly between 10pm to 7am. Noise from patron activities, live and amplified music, waste collection and other delivery and service vehicles requires specific consideration having regard to the need to balance the operations and functions of businesses with the amenity of nearby residential uses.

The use of public footpaths for outdoor dining contributes to vibrant streets. Outdoor dining is to be for genuine dining purposes where the serving of liquor is ancillary to meals, and the use of footpaths for dining should not interfere with pedestrian activity or diminish public amenity.

Council works collaboratively with other agencies including NSW Police and Liquor & Gaming NSW to regulate activities in the night-time economy and to ensure that businesses, including particularly licensed premises, support the ongoing viability and vibrancy of the centres whilst respecting the public amenity and liveability of adjoining and nearby residences.

As identified in the report to Council's Environmental Planning Committee meeting held on 6 May 2019, Council wants to encourage a vibrant NTE but seeks to ensure that suitable controls are in place for safety and amenity, and that these controls be reasonably applied and enforced.

In particular Council raises the following matters that we ask the Committee to consider:

1. Improving and streamlining complaints handling process associated with noise and other impacts from licensed premises

Tensions can sometimes occur between residential amenity and the functioning of viable centres particularly when the night-time activities involve licensed premises and amplified or live music.

Responsibility for enforcing noise and other complaints is shared between Council and various agencies including the NSW Police and Liquor & Gaming NSW, sometimes with overlapping roles.

The process for assessing and addressing complaints and ensuring that licensed premises are complying with the relevant consent, license and regulations can often be complex and protracted. For example, investigating noise complaints associated with licensed premises is a technical, protracted and costly process requiring the gathering of evidence by external experts such as acoustic consultants.

Request: That the Committee to identify options to establish a central State Government contact for receiving complaints and handling the complaints process regarding licensed premises, and that opportunities to streamline the resolution of issues are identified.

We also note the NTE Taskforce is investigating noise management initiatives which support the sustainability of venue spaces for music and the arts, whilst also addressing community amenity. We welcome the opportunity to comment on proposed solutions that limit and control noise in mixed use urban environments to allow uses to better co-exist.

2. Regulatory changes to allow Councils to establish consistent hours of operation applying to night-time economy businesses

Council currently sets out the trading hours for licensed premises in the Woollahra Development Control Plan. This provides a consistent and transparent approach to determining trading hours for licensed premises including footway restaurants which are applied to current DAs.

However there are existing businesses that are operating under older consents issued many years ago, and those consents specify trading hours that are not consistent with Council's current policy position. This creates a situation where some venues are operating with longer hours than others, and those trading hours are not considered reasonable having regard to the increased concentration of NTE businesses in some centres.

However there is no legislative mechanism available for Council to retrospectively apply more restricted trading hours to bring the trading hours in line with current policy.

Request: That the Committee to consider regulatory options which would give the consent authority power to amend hours of operation relating to licensed premises with older consents (ie consent issued before reviewable conditions were introduced) if a new DA is lodged for that venue, regardless of the nature or scope of the proposed DA for the licensed premises.

In addition to the above matters which reflect issues that Council has previously identified, Council's Compliance, Strategic Planning and Placemaking staff also make the following observations for the Committee's consideration and investigation:

1. Area of the review

It is considered in some quarters that the measures put in place to control Sydney's night time economy including the City of Sydney's lockout laws have had a direct, and potentially negative, impact on the areas with night time economies immediately adjoining the restricted area. One such area is Double Bay, where the number of late night noise and disturbance complaints associated with licensed premises have risen in the past 18 months or so.

Accordingly, it is considered critical that the inquiry also consider and have regard to the areas adjoining the City of Sydney's night time economy area so the full impact of the current controls and any possible changes are evaluated.

Request: That the Committee broaden the area of the review to include the night time economies adjoining the designated Sydney area, with consideration being given to the impact of any suggested changes to the City of Sydney's night time economy on these adjoining areas.

2. Primary service authorisation (PSA)

Rules around restaurants and service of alcohol can have unanticipated outcomes. In our experience some restaurants with a liquor license and which have late trading hours trade more like bars or nightclubs during those later hours. Where these are located in proximity to residential premises the likelihood of unreasonable amenity impacts is high.

A PSA can change the trading character of a restaurant and its externalities. Although a PSA is not meant to change the prime purpose from that of serving meals it makes the regulation of the premises less clear and therefore more complicated. This can lead to uncertainty for the restaurant operator, regulatory authorities and nearby residents.

Request: That the Committee review the rules around restaurants and primary service authorisations to ensure any issued PSA is fully consistent with the relevant development consent use so as to give more certainty to the resulting trading nature of the restaurant.

3. Quantitative data on the NTE

There is a growing focus on the NTE from a government and policy perspective. However it is difficult for policy makers, such as Council, to obtain sound quantitative data about businesses operating in the NTE. For example, from ABS data we cannot confidently identify the economic contribution of the NTE, as we cannot readily distinguish those businesses that operate in the NTE from those that only operate during the day time.

Request: That the Committee investigate methodologies, mechanisms or the like for obtaining quantitative data on the NTE to help Councils better understand and plan for the NTE.