

## **Public Exhibition - Sydney Development Control Plan 2012 Amendment - Late Night Trading 2018 (Not Liquor Licensing)**

**File No: X011942**

### **Summary**

This report proposes changes to City of Sydney planning controls for late night trading. It does not affect liquor licensing laws, which are the responsibility of the NSW Government.

A thriving, diverse and safe night time economy can strengthen Sydney's global competitiveness as a productive, liveable and inviting city. The night time economy provides a range of social, cultural and recreational opportunities to match the needs of the City's growing population of residents, workers and visitors. The night time economy generates more than \$4 billion per year, with 4,872 businesses employing more than 35,000 people. It includes small bars, bars, pubs, cafes, and restaurants, as well as shops, businesses, performance venues and cultural spaces.

In 2007, the City adopted its Late Night Trading Development Control Plan (DCP) to encourage a diverse and vibrant night time economy while protecting residential neighbourhoods. The controls set out the area, hours and management requirements for late night trading in the city and balance the needs of those who want to go out, those who want to do business at night and those who want a quiet night at home. The DCP includes innovative planning controls such as trial periods, later trading for lower risk premises such as small bars and late night precincts that reflected the character and activity of the area.

Since 2007, a lot has changed in the city, with changes to laws governing late night trading, the type of venues we visit at night, population growth and change and urban renewal. Given these changes, in October 2017 Council resolved to review the areas and hours of the late night trading controls in the Sydney Development Control Plan 2012 (the DCP) to ensure they were still meeting their objectives.

The review is supported by a number of City strategies and plans, including OPEN Sydney, Creative City Cultural Policy and Action Plan and Live Music and Performance Action Plan. These strategies and plans were developed in consultation with the community and business and signal a new vision for the night time economy. This vision includes a diversity of late opening shops, businesses, performance venues, creative and cultural activities.

The City carried out extensive consultation in February to March 2018 to inform the review, asking the community and business about where and when late night trading should occur in the city. Consultation activities included pop-up events, telephone, online and mobile phone app surveys, and facilitated an unprecedented response with over 10,000 pieces of feedback received.

Consultation confirmed strong support for increased trading hours and diversity, including late opening shops and businesses, performance venues, small bars and creative and cultural activities. More late night trading in Green Square and in other local areas was supported. Twenty two written submissions were received from individuals, community groups and industry raising concerns about the lockout laws, noise and amenity impacts, increased transport, activation of streets, and alcohol harm minimisation strategies. The City's new Night Life and Creative Sector Advisory Panel has provided input into the review. They support more connected and diverse precincts, including more culture and creativity and later trading hours.

This report seeks approval to publicly exhibit changes to the City's late night trading planning controls. The proposed changes include new and extended late night trading areas and encourage more diverse late night trading with performance, shops and businesses to attract a wide range of people and create a more balanced and safe night time economy.

Five key changes are proposed to the late night trading planning controls:

- (a) A 24 hour City Centre – extending the Late Night Management Area along George Street across the City Centre and increasing the trading hours.
- (b) Increasing hours for low impact venues in Local Centres – aligning the controls with NSW Government licensing rules and allowing lower impact venues, including small bars, to trade until 2am if entry is to a main street and not onto a residential laneway or area.
- (c) New areas for new communities - identifying late night trading areas in suitable urban renewal precincts, including Barangaroo, Walsh Bay, Green Square Town Centre, Danks Street, East Village Shopping Centre, and an arts focussed industrial heritage warehouse area in Alexandria.
- (d) Extending existing areas - recognising venues in Chippendale, Redfern, Surry Hills and Lankelly Place, Potts Point, that have emerged since 2007 to expand precincts.
- (e) Encouraging performance, culture and unlicensed businesses:
  - (i) Allowing unlicensed shops and business, such as bookshops, clothing stores, drycleaners and hairdressers to trade up to 24 hours in City Living or Late Night Management Areas and up to 2am in Local Centres.
  - (ii) Describing dedicated performance venues, such as theatres, concert halls and cinemas with up to 250 patrons located in late night trading areas, as lower risk premises and allowing these venues an additional trading hour at closing time.
  - (iii) Allowing venues located in late night trading areas that host performance one additional trading hour at closing time on the night that they provide the performance.

Other changes include providing guidance on appropriate trading hours for low impact venues outside of the precincts, consolidated Plan of Management requirements and earlier start times for morning service at pubs, bars or cafes. The report recommends that Council approve the Draft Development Control Plan for public exhibition.

## Recommendation

It is resolved that Council approve the Draft Sydney Development Control Plan 2012: Late Night Trading 2018, as shown at Attachment A to the subject report, for public exhibition for a minimum of 28 days.

## Attachments

- Attachment A.** Draft Sydney Development Control Plan 2012: Late Night Trading 2018
- Attachment B.** Table of Amendments and Rationale
- Attachment C.** Consultation Reports (Note: Due to its size, Attachment C has been circulated in electronic format only. A copy is available for viewing on Council's website).

## Background

1. This report seeks Council approval to publicly exhibit proposed changes to the City's late night trading planning controls in Sydney Development Control Plan 2012 (the DCP), Late Night Trading Development Control Plan 2007 (the Late Night Trading DCP) and Green Square Town Centre Development Control Plan 2012.
2. In October 2017, Council resolved to review the areas and hours of the late night trading controls in the Sydney Development Control Plan 2012 (the DCP). This was to ensure the controls are meeting their objectives 10 years after they were first adopted.
3. A number of changes have affected the City's late night economy since the controls were first adopted in 2007. The City's Open Sydney Strategy has been adopted and encourages a diverse and vibrant nightlife and includes an action to review the controls to identify opportunities for growth in appropriate areas.
4. The population of the City has changed, with more people living in the City and in different areas. In Green Square there has been a 50 per cent increase in population from 2001 to 2016. The community has also changed with Census data showing that between the 2011 and 2016 census approximately half of respondents in the Sydney LGA were new residents in the City.
5. Since 2007, many small bars have established in the city and there is a renewed interest in live music and performance.
6. The legislative framework for liquor licensing changed in 2014 with the introduction of the NSW Government's lockout laws, and this has affected the character of some of the late night trading areas.

## The night time economy

7. The City's night time economy plays a key role in maintaining Sydney's competitiveness and standing as a global city. It has the potential to attract talented workers, global businesses, jobs, expenditure and international visitors to the City, helping to drive the City's economic growth. It can also establish a diverse social and cultural offering for residents and workers of all ages in Sydney, to ensure that a wide range of night-time activities are available to match the Sydney's growing and changing population. Late night trading includes small bars, bars, pubs, cafes, restaurants, shops, businesses, performance venues, events and cultural spaces that generally trade later than 10pm.
8. The City contains one of the greatest densities of late-trading licensed premises in Australia. In 2018, the City has 2,267 licensed premises, such as bars, hotels, nightclubs, small bars, restaurants and performance venues. Twenty three of these premises are able to trade 24 hours and 546 trade after midnight. The night time economy in the City generates more than \$4 billion in revenue each year, with more than 4,800 businesses employing more than 35,000 people.

## City Strategies

9. Historically, the City's late night economy has been characterised by licensed premises, such as hotels, pubs, bars, entertainment venues and restaurants. City strategies developed in consultation with industry and the community signal a new vision for the night time economy, which includes a diversity of late night, performance and cultural activities in the city.

10. The OPEN Sydney Strategy includes the City's vision for its night time economy and was adopted in 2013 after extensive consultation with the community and business. The strategy forms the basis for decisions about Sydney's night time economy, including actions for making Sydney at night better connected, more diverse, inviting, safe and responsive to change. One of the five key objectives is the diversification of the night time economy and increasing the amount of night time entertainment options.
11. Action 3.1.1 of the strategy encourages non-alcohol based businesses to extend their operating hours further into the evening and Action 3.1.2 promotes later trading cultural venues and creative spaces. Actions to encourage a more dispersed night time economy are outlined in Action 3.2.1 and include considering a range of policy options to encourage appropriate night time economy growth in new areas as well as advocating for the management of high impact premises in problem areas.
12. Other City strategies, such as the City's Creative City Cultural Strategy and Live Music and Performance Action Plan have been developed in consultation with industry and the community and contribute to the objective for a more diverse night time economy with actions to review the planning controls to support live music, performance and cultural activity.

### **Current late night trading controls**

13. In 2007, Council adopted the Late Night Trading Premises DCP to encourage diversity and vibrancy in the night time economy, and ensure venues are well located, supported by local services and well managed with minimal impacts on sensitive land uses. The controls were later transferred into the Sydney DCP 2012, which applies to most of the council area. Section 3.15 and Schedule 3 of the Sydney DCP 2012, contain the current relevant provisions, and are included at Attachment A.
14. The Late Night Trading DCP 2007 still applies to a number of sites where the Minister of Planning is the consent authority. These sites are excluded from the Sydney DCP 2012 as the Sydney LEP 2012 does not apply to that land. The City is however the consent authority for development proposals less than \$10 million in value on these sites and therefore applies the 2007 late night trading provisions when it assesses late night trading proposals. The Green Square Town Centre is excluded from the Sydney Development Control Plan 2012, and the Green Square Town Centre DCP 2012 applies.
15. The DCP identifies precincts with different maximum trading hours depending on the location and character of the area and promotes ongoing good management by requiring trial periods before extending hours. Late night trading areas include.
  - (a) Late Night Management areas: These areas are vibrant and varied areas with a mix of shopping, food and entertainment options late at night. They attract visitors and residents because they have a critical mass of activity and are accessible by public transport. Premises in these areas have the possibility of 24 hour trading.
  - (b) City Living areas: These areas have a lower concentration of commercial businesses, small bars and pubs, shops and cultural and entertainment venues. Premises in these areas can obtain development consent to trade between 7am and 5am the next day.

- (c) Local Centre areas. These areas are the shopping or high streets that are a commercial and cultural focus for the local community and include restaurants, small bars, cafes, licenced hotels and shops and local businesses. Premises in these areas can obtain development consent to trade between 8am and midnight.
16. The DCP categorises premises to which it applies as either 'high impact', which includes licensed premises such as hotels, nightclubs, clubs catering for over 120 patrons, or 'low impact', such as small bars catering for less than 120 patrons or licensed restaurants. The location of current late night trading areas is shown in Attachment A.

### **NSW Liquor legislation and amendments**

17. In NSW, the Liquor Act 2007 regulates and controls the sale, supply and consumption of alcohol and a licence is required to sell or supply alcohol. The licence is required in addition to a development consent under planning legislation, which allows for a use of land or development to occur. Liquor licences may also include conditions which relate to the operation of a business and may overlap with development consent conditions, such as the trading hours. Businesses are required to comply with both liquor licence conditions and development consent conditions. The more restrictive conditions for trading hours, whether in the liquor licence or development consent, set the maximum trading hours.
18. Since 2012, a number of changes to NSW liquor laws have been introduced which affect late night trading licensed premises in the City and shape the character of late night trading areas in the City. These changes include:
- (a) The Liquor Amendment (Kings Cross Plan of Management) Act 2013: Introduced, among other measures, precinct-wide temporary and long term banning orders for troublesome patrons and mandatory use of linked ID scanners for high risk venues (trade after midnight with more than 120 patrons) to support enforcement of the banning orders.
  - (b) Liquor Amendment (Small Bars) Act 2013: Created small bar liquor licences, allowing a maximum of 60 patrons with automatic authorisation to sell liquor from midday to 2am, excluding premises in the CBD and Kings Cross liquor licence freeze precincts where licences only permitted trading until midnight.
  - (c) Liquor Amendment Act 2014: Expanded the liquor freeze in Kings Cross across the CBD entertainment precinct from Kings Cross to Darling Harbour, The Rocks to Haymarket, and Darlinghurst, with venue lockouts from 1.30am and a limit on the service of alcoholic drinks after 3am. This included a freeze on liquor licence approvals for new pubs and clubs and a 10pm closure for takeaway bottle shops.
  - (d) Independent Liquor Law Review 2016: Endorsed the continuation of the lockouts laws and extended lockout times for low risk entertainment venues from 1.30am to 2am with last drinks times from 3am to 3.30am on a two year trial period. Takeaway alcohol sales were extended from 10pm to 11pm.

- (e) Liquor Amendment Regulation 2016: Increased the patron capacity of small bars from 60 to 100, and provided extended trading to 2am for small bars in the CBD and Kings Cross which were previously excluded due to the licence freeze. It introduced a two-year trial of a later 2am lockout and 3:30am last drinks for venues that offer live performance or art and cultural events in the Kings Cross and CBD entertainment precincts.
  - (f) Liquor Amendment (Miscellaneous) Regulation 2017: Exemption to Liquor Licence freeze for performance.
  - (g) Liquor Amendment (Special Events Extended Trading) Regulation (No 2) 2018: Extended the liquor licence freeze until 1 June 2019 with a special exemption for venues providing live music entertainment or visual or performance arts or other cultural events.
19. Submissions by the City to the liquor law reforms have advocated for a vibrant and sustainable night-time economy to remain competitive and maintain Sydney city's global status. The submissions support a nuanced evidence-based approach to reduce alcohol related crime which does not undermine the night time economy.

### Early Consultation

20. Early consultation on the Late Night Trading Review was undertaken from 26 February to 30 March 2018 to inform the review and obtain the general views of community and business on when and where late night trading should happen in the city.
21. The consultation tested community and business satisfaction with existing late night precinct boundaries and operating hours; appetite for changes to the boundaries and hours of late night areas, and views on what types of late night trading the community wants and where.
22. The consultation program targeted residents, visitors, licensed premises operators, entertainment venues, advocacy groups and industry, health and government representatives. Consultation activities included:
- (a) The telephone survey conducted with 601 residents between 7 March and 15 March 2018 matched to the demographic profile of the city. The survey asked residents about the late-night precinct they live closest to, and another late-night precinct within the city that they had visited in the past two to three years.
  - (b) The online survey conducted between 22 February and 2 April received 9,711 responses. The survey was open to anyone interested in late night trading in the city, including non-residents. The survey provided an opportunity for respondents to comment on one, or all of the 17 late night trading areas in the city. It sought views on where new late night trading areas could be located or increased hours could occur. 59 per cent of participants were aged between 25-39 years old, with 79 per cent of respondents saying that they stay out later than 12am.
  - (c) The pop up engagement involved face-to-face conversations with about 550 people, during the evening between 1 March and 16 March 2018. It captured the views of residents, workers and visitors on the street in late night trading areas of Redfern, Newtown, Kings Cross, Darlinghurst, Erskineville, Ultimo, Surry Hills, Zetland, Circular Quay and George Street.

- (d) An engagement Sydney Your Say app incentivised users to provide feedback to formulated “yes/no” survey questions over a period of three weeks. 422 users downloaded the app, answering more than 50,000 questions. Most users of the app either lived, worked or frequently visited Sydney. Participants were a mainly a younger demographic, typically difficult to reach, including 58 per cent male, 42 per cent female and 65 per cent aged between 18-34. 71 per cent of users stated that they stay out later than 12am.
23. The response to this consultation has been unprecedented, reflecting a high level of interest and engagement in issues relating to the City’s night time economy. The consultation obtained a broad range of views, with 60 per cent of respondents to the telephone and online survey registering as residents, 42 per cent as workers, nine per cent as students and 5.5 per cent as business owners in the City. The consultation report is at Attachment C. Further detail on the survey approaches and outcomes is summarised below.

## Consultation findings

### *Survey findings*

24. Detailed reports of the online, telephone and pop-up surveys and the mobile app consultation are available at Attachment C. The key themes and outcomes arising from the consultation are summarised below.
- (a) There is no demand to reduce the size of late-night trading areas. The majority of respondents wanted to see late night precincts expand, with 48 per cent of telephone survey respondents, 76 per cent of online survey and 82 per cent of popup consultation respondents seeking expansion of precincts. Respondents wanted to maintain the size of popular precincts like Newtown.
- (b) There is a strong desire to increase trading hours of late night trading. The majority of respondents supported the extension of opening hours, with 63 per cent of the telephone survey, 91 per cent of the online survey, 79 per cent of the popups and the majority of the mobile app respondents wanting an increase in the hours of late night trading areas nearest to where they live.
- (c) There is strong support for increased diversity of late night businesses. 71 per cent of telephone survey respondents wanted more late opening shops, 68 per cent wanted more music venues, 66 per cent more restaurants and 64 per cent more small bars. 87 per cent of online survey respondents wanted more small bars, 85 per cent performance venues and 84 per cent venues with live music, like pubs, bars and restaurants.
- (d) People want more late night activity near where they live, not just where they go out. 52 per cent of the telephone survey respondents wanted an expansion of late night precinct near where they live, 44 per cent wanted an expansion of late night precinct where they go out. The mobile phone app indicated that distance and convenience influence where people visit late night precincts.

- (e) There is strong demand for increased late night activity around Green Square. 83 per cent respondents to the telephone survey wanted Botany Road in Green Square to expand, 77 per cent wanted hours in Green Square to increase and 87 per cent registered strong support for late opening shops and businesses, including cafes and restaurants, performance, mixed use venues and small bars. 82 per cent of the online survey wanted expanded areas, 87 per cent increased trading hours, with strong support for late opening shops and businesses, cafes and restaurants, performance, mixed use venues and small bars.

#### *Written Submissions*

25. Twenty two written submissions were received, including 15 from individuals, four from industry stakeholders and three from community groups.
26. Individual residents raised the impact of noise from late night trading on residential amenity and public safety and the need for more responses to breaches of waste management, parking and noise complaints. Others raised their opposition to lockouts laws and the impact of these on the late night economy.
27. The Chippendale Residents The Chippendale Residents Interest Group raised the need to place more emphasis on culture, arts and innovation, restrict late night trading to Kensington Street and Broadway, and to balance the interests of commercial and educational interests with those of residents. The 2011 Residents Association Inc, which represents residents of the 2011 postcode, Potts Point/Kings Cross, Rushcutters Bay, Woolloomooloo and Elizabeth Bay, sought to retain rules which ensure better management of late night premises and supported visual and performing arts and more diverse entertainment options.
28. Another city centre community group supported existing precincts, more public transport, an entertainment hub with support for the arts and musicians, more late night shopping in the CBD, opening hours until 5am, preservation of the character of Surry Hills and Newtown and the removal of lockout laws.
29. Industry submissions sought a more diverse and eclectic offering supported by transport, greater activation of streets and lanes and the removal of lockout laws. Other issues raised included the health and safety issues associated with employees working late, and the lack of evidence that extending retail trading hours increases revenue in the retail industry. NSW Health Alcohol and Drug Prevention raised the need to clarify responsibilities between NSW Liquor and Gaming and the City and to research evidence based alcohol harm and minimisation strategies.

#### *Consultation with City Panels*

30. In April, July and August 2018, City staff consulted with the City Inclusion (Disability) and the Nightlife and Creative Sector Panels to obtain their views on late night trading and potential changes to the planning controls. City staff also presented the consultation outcomes and the late night trading review to the City's Retail Advisory Panel. The views of each Panel are summarised below.

*Inclusion (Disability) Advisory Panel*

31. The Panel supported a diverse and vibrant nightlife that caters for all people and includes a range of entertainment and recreation options, not just licensed premises and encourage increased passive surveillance across city streets. It requested that the City work with Police to raise awareness about safety, inclusion and access to venues, including people with disability, and continue to address anti-social behaviour within the public domain, particularly in late night trading precincts and ensure people with a disability have equitable access to emergency services.

*Nightlife and Creative Sector Advisory Panel*

32. The Panel provided feedback and input into the review:
  - (a) Upgrading of precincts, expanding boundaries and creating corridors which connect precincts to the city centre and other precincts.
  - (b) Transitional zones that signal a change of use to accommodate more late night trading in corridors, urban renewal areas near Green Square and Metro Stations and adjacent to zones where small-scale cultural uses will be encouraged.
  - (c) Later trading hours in Newtown, Glebe Point Road, Darlinghurst, Oxford Street and Surry Hills.
  - (d) Support for new areas in Chippendale, Surry Hills, Danks Street.
  - (e) A new creative and cultural category to incentivise more diversity.

*Consultation with Police Area Commands and other agencies*

33. City staff have presented the consultation outcomes and discussed the review with Police representatives from various Area Commands in the local government area. The Police have raised the impact of increased late night trading hours or expanded areas on their ability to respond to incidents and manage community safety. They are also concerned about the increased risk of crime that may result from the extension of late night trading hours.
34. The Glebe and Surry Hills Commands considered increased performance, creative and cultural provisions as possibly matching the needs and desires of their local communities. The Newtown Command was concerned about the capacity of infrastructure in Newtown to accommodate increased late night activity.
35. Other issues raised include impacts from licensed premises informally changing from approved uses, for example small bars morphing into nightclubs and restaurants becoming bars. The anti-social behaviour that can occur at takeaway food venues and convenience stores after licensed venues have closed were also raised by most Commands. The need for public transport to be available and aligned with closing times of venues was also raised as important to ensure the efficient and safe movement of people out of late night trading areas.
36. Staff also presented the consultation outcomes and discussed the review with officers of Inner West Council, NSW Liquor and Gaming, NSW Health Alcohol and other Drug Prevention and Harm Minimisation team and the NSW Night Time Economy Taskforce.

## Key Implications

37. The proposed changes to the late night trading controls are included at Attachment A. The rationale for each of the amendments is included in Attachment B. The amendments address the following sections of the DCP:
  - (a) General Provisions: The amendments include provisions to encourage the provision of performance and cultural and creative uses in dedicated performance venues and licensed premises, changes to the trading hours and the inclusion of trading hours for areas outside of the nominated precincts and a new category of trading hours for unlicensed premises.
  - (b) Schedules: The amendments update the character statements to reflect the proposals for Local Centres and the provision of performance and cultural activities in dedicated performance spaces or licensed premises. It consolidates and refines Category A and B Plan of Management requirements.
  - (c) Maps: The maps show extensions to existing late night trading areas, new areas and changes in categories of area.
38. The issues and rationale for the key changes to the late night trading provisions are discussed in the following sections.

## 24 hour City Centre

39. The Draft DCP proposes a single Late Night Management Area across the city centre. This enables 24 hour late night trading venues to locate throughout the city centre and may reduce some of the negative cumulative impacts, such as crowding, queuing and noise, which may arise from concentrating venues in small locations. The extent of the proposed Late Night Management Area is shown on Figure 1.
40. The amendment will extend the current Late Night Management Area with potential to trade up to 24 hours from George Street into the current City Living area surrounding George Street which currently has the potential to trade until 5am. This will include incorporating a small number of blocks in The Rocks and near King Street Wharf currently surrounded by late night trading, that were not previously part of a Late Night Management or City Living area. A single Late Night Management area is proposed to include the CBD to Darling Harbour to the west, to Central Station to the south and Hyde Park and Macquarie Street to the east.
41. The city centre will have increased night time accessibility from the future 21 hour Sydney Metro with stops at Barangaroo, Pitt Street and Martin Place and Central Station and the George Street light rail.
42. It is noted that 24 hour trading of licensed venues may not be taken up at the current time due to the NSW Government's 1.30am or 2am lockouts and 3.30am last drinks laws. However, if these impediments to trade are removed in the future, the proposed amendments mean that the DCP will not be an impediment to future applications for 24 hour trade in this area.
43. This proposal responds to community consultation, which has indicated a desire for increased late night trading areas and hours across the city centre. In accordance with the objectives of OPEN Sydney and Action 3.2.1, it enables growth away from existing clusters of higher impact premises and provides the potential for more entertainment options in different locations in the city centre, by reducing impacts associated with clustering of 24 hour uses and creating a more inviting and safe global city.



**Figure 1** - New Late Night Management Area in the CBD shown in green hatch, City Living area at Barangaroo shown in orange hatch and Local Centre in Walsh Bay shown in red hatch. Solid colours indicate current late night trading areas.

#### **Additional hour for lower impact premises in Local Centres**

44. The Draft DCP proposes to increase the extended hours for lower impact premises (Category B) from 12am to 2am, subject to trial periods, to align with NSW small bar liquor legislation. These extended hours will not be permitted if there is entry or egress onto a residential lane or area.

45. The proposal to increase the maximum trading hours to 2am reduces regulatory burden by aligning with NSW Government legislation for small bars and supports the community's desire for greater diversity, more small bars and more late night options in local areas.
46. There may be situations where the access arrangements of a venue and the dispersal of patrons from a venue after 12am may adversely impact on residential amenity. As a result, the DCP amendments only allow the approval of extended trading hours to 2am if entry and egress is onto a main street and not onto a laneway or into a predominantly residential area. If entry or egress is towards a residential area, then trading will only be permitted to 12am.

#### **New City Living Area - Barangaroo**

47. The Draft DCP proposes a new City Living area for Barangaroo which will allow trading hours up to 5am. The proposed boundaries of the area are shown in Figure 1 above.
48. Currently no late night trading area applies to Barangaroo. The area was still a wharf when the controls were first developed in 2007 (although it is included in land to which the Late Night Trading Premises DCP 2007 applies) and was excluded from the Sydney DCP 2012 as it was included in the State Environmental Planning Policy (Major Projects) 2005.
49. Barangaroo South includes over 40 licensed food and drink premises and serves workers, residents and visitors to Sydney, however; the majority of businesses in the area do not apply to trade later than 11pm. The area has the potential to contribute to the night time economy of the global city centre.
50. A City Living area with the potential for extended late night trading hours to 5am will better reflect potential night time and visitor role of Barangaroo, which will be supported by an increase in accessibility from the 21 hour Sydney Metro stop, ferry station and future redevelopment of Barangaroo Central. The redevelopment at Barangaroo features high quality design and acoustic treatments which will help manage any impacts of establishing a vibrant late night trading area.

#### **New Local Centre - Walsh Bay**

51. The Draft DCP proposes a new Local Centre in Walsh Bay, with potential for extended trading hours up to 12am for higher impact (Category A) premises and 2am for lower impact (Category B) premises if entry and egress is onto a main street. The extent of the Local Centre is shown in Figure 1 above, and excludes the Pier at 19 Hickson Road which comprises mainly residential accommodation.
52. Walsh Bay is characterised by theatres and performance spaces such as The Roslyn Packer Theatre, Sydney Theatre Company, and Sydney Dance Company. It includes bars, cafes and restaurants on the waterfront and along Hickson Road. Currently the majority of these premises trade until 10pm or 12am, with most cafes trading until 4pm.
53. The new Local Centre will encourage late opening shops, businesses, food and drink and performance venues to support the NSW Government's vision for a new arts and culture precinct in Walsh Bay, due for completion by 2020. The Government's proposals include the adaptive reuse and refurbishment of Piers 2/3 and 4/5, and will increase space for performance, cultural events and festivals as well as commercial and retail opportunities in the area.

54. The new Local Centre trading hours will align with those of current and future theatre performances and cultural events in Walsh Bay and link with the recreational and cultural opportunities of the future Barangaroo Central development.

#### **New late night trading areas - Green Square**

55. The Draft DCP proposes four new late night trading areas in the Green Square urban renewal area. These are proposed to provide diverse late night trading precincts for the current and future population in North Alexandria, the Green Square Town Centre, Danks Street and East Village Shopping Centre. The proposed boundaries of the new areas are shown in Figure 2 below.
56. Green Square is the city's largest urban renewal area, which will be home to 30,500 residences and 61,000 people by 2030. It is where the largest number of 18-35 year olds in the City also live and where the population has doubled since 2006.
57. Currently, Green Square has very little late night trading, with one local centre on Botany Road south of the future Green Square Town Centre including one licensed premises. The establishment of new late night trading areas in Green Square responds to consultation which called for more late night trading for the new communities in this growing precinct.

#### *North Alexandria - Late Night Management Area*

58. The Draft DCP proposes a new Late Night Management area with an arts, cultural and entertainment focus in a heritage warehouse precinct in north Alexandria. The area is a heritage conservation area and zoned B7 Business Park, which prohibits residential uses. The Late Night Management Area will have the potential for extended trading hours up to 24 hours.
59. The proposed Late Night Management Area is bounded by McEvoy Street to the north, Stokes Avenue to the east, Alexandria Canal to the south and McCauley Street to the west. It includes a network of streets and lanes characterised by the twentieth century industrial warehouses of the North Alexandria industrial conservation area. The proposed area is accessible by public transport, located within 600 metres of Green Square Station and 550 metres of the future Sydney Metro station at Waterloo which will operate 21 hours a day.
60. The warehouse buildings provide ideal heritage character and space for live performance, creative or cultural uses. One licensed premise currently operates in McCauley Street. The proposed area offers a valuable and unique opportunity to establish late night trading in an industrial area with the absence of potential conflicts in land use, character or impact on residential amenity.

#### *Green Square Town Centre – Local Centre*

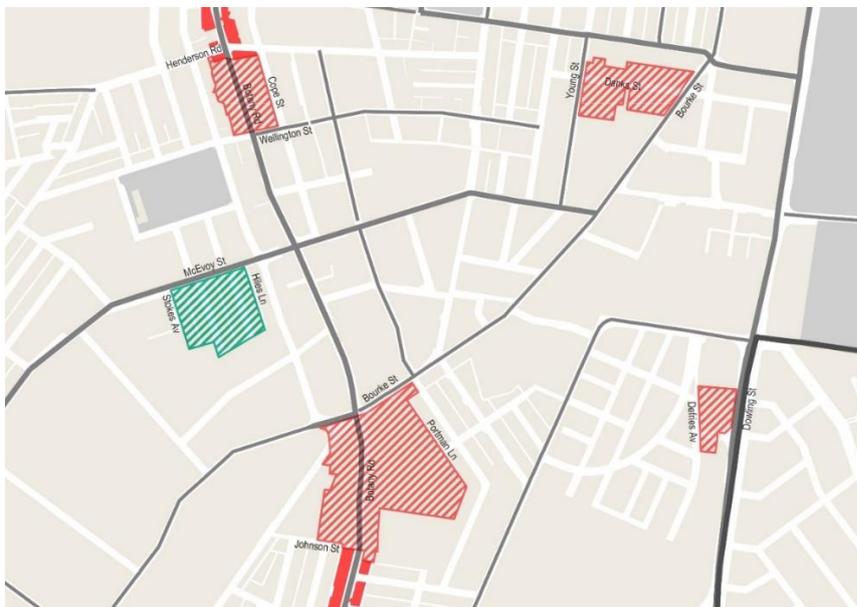
61. The Draft DCP proposes a Local Centre for the Green Square Town Centre, with potential for extended trading hours up to 12am for higher impact (Category A) premises and 2am for lower impact (Category B) premises if entry and egress is onto a main street.
62. The Town Centre is the business and retail centre for the new Green Square community and will be the future for the late night economy in that part of the city. It will include a range of late night trading businesses, library, shops and restaurants and is well served by rail and buses. It will link to the existing Botany Road Local Centre currently serving Rosebery and provide the opportunity to further activate this precinct.

*Danks Street – Local Centre*

63. The Draft DCP proposes a new local centre along Danks Street in Waterloo between Young and Bourke Street. Late night trading in the new Local Centre will have the potential for extended trading hours up to 12am for higher impact (Category A) premises and 2am for lower impact (Category B) venues if entry and egress is to a main street.
64. Danks Street is characterised by shops and cafes the majority which generally only trade during the day time, however there are premises in this area that open until around 10pm. It is well located to serve future population growth projected in the area.

*East Village – Local Centre*

65. The Draft DCP proposes a new Local Centre area at the East Village shopping centre including premises on Cooper Place in Zetland. Late night trading in the new Local Centre will have the potential for extended trading hours up to 12am for high impact (Category A) premises and 2am for lower impact (Category B) premises if entry and egress is onto a main street.
66. The East Village Shopping Centre was opened in October 2014, is located with residential flat buildings located to the east and south and is well located to serve current and future population in the area. The centre contains 16 food and drink premises including eight ground floor food and drink premises fronting Defries Avenue and Cooper Place. Generally these premises close before or at 10pm with a pub operating until midnight. Consultation held at the shopping centre indicated strong support for a late night area in that location.



**Figure 2** - New Late Night Management Area in North Alexandria shown in green hatch and Local Centre areas in Green Square shown in red hatch. Solid colours indicate current late night trading areas.

**Extensions to existing late night trading areas**

67. The Draft DCP proposes three extensions to existing late night trading areas in Chippendale, Redfern and Surry Hills west. The amendments are proposed to match the existing character of the precincts and recognise late night premises that have come forward since the controls were adopted in 2007.

*Chippendale*

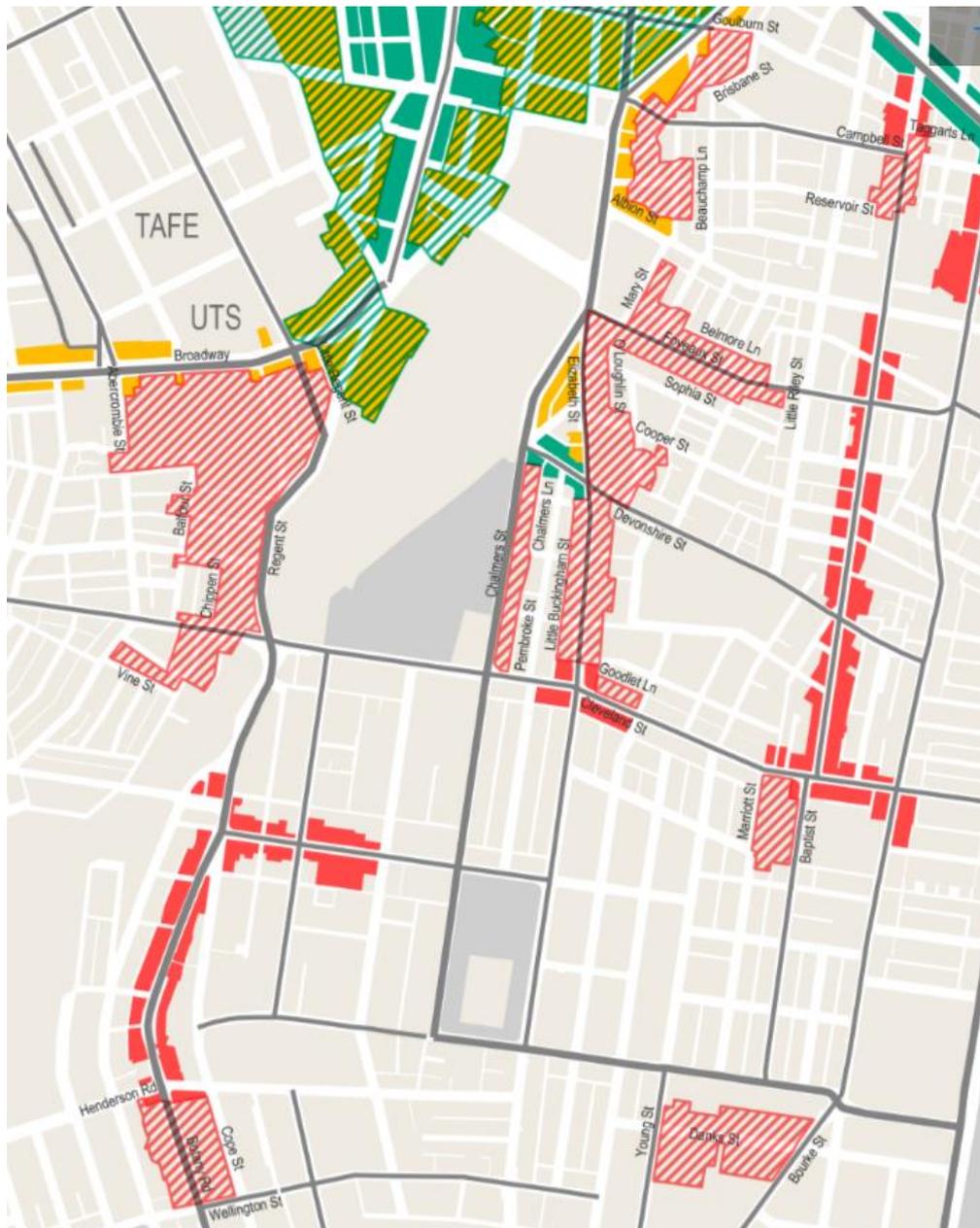
68. The Draft DCP proposes a new Local Centre which extends from Broadway to Abercrombie, Balfour Street, Meagher Street, Chippen Street, Abercrombie south of Cleveland Street, Vine Street and Regent Street and includes the Central Park precinct.
69. Late night trading in the new Local Centre will have the potential for extended trading hours up to 12am for higher impact (Category A) premises and 2am for lower impact (Category B) premises if entry and egress is onto a main street. The proposed boundaries of the extended area are shown in Figure 3 below.
70. This extension is proposed in an area of the City with a significant student population and high proportion of 18-35 year olds (74 per cent of the precinct population). It incorporates the cluster of licensed premises that have established since 2007 around the Central Park site, including restaurants which have opened along Kensington Street as well as an area of creative and co-working spaces and cafes and a small bar south of Cleveland Street. With the exception of a pub and small bar, which trade until 2am and 3am respectively on Regent Street, licensed premises within the proposed area currently trade until 10pm or midnight.
71. This proposal incorporates Regent Street, which is a noisy road environment well suited to live music and late night trading venues. It includes the Chippendale creative precinct, but excludes predominantly residential areas in Chippendale.

*Redfern*

72. The Draft DCP proposes an extension of the Redfern Local Centre area to the south along Botany Road between Henderson Road and Wellington Street to incorporate the site of the Sydney Metro Station at Waterloo. The provisions propose extended hours for lower impact (Category B) premises to 2am if entry and egress is onto a main street. The proposed boundary of the extended late night trading area is shown in Figure 3 below.
73. The extension to this area is proposed in response to the potential of Botany Road, as a noisy road environment well suited to live music and late night trading venues, and the proposed Sydney Metro at Waterloo which is located a block south of the existing Local Centre area.
74. The extension will serve the increase in population proposed by surrounding state significant development sites, and be supported by increased accessibility from the 21 hour Sydney Metro. The inclusion of a late night trading area around the site of the new Metro will encourage night time uses and a connection to the Sydenham creative hub, which is the next stop south of Redfern on the proposed Sydney Metro route.

*Surry Hills west*

75. The DCP amendments propose an extension west of Wentworth Avenue and Elizabeth Street in Surry Hills, and along Chalmers Street for a new Local Centre. The Local Centre will allow extended hours for lower impact (Category B) premises to 2am if entry and egress is to a main street.
76. Minor extensions of the Local Centre area south of Oxford Street on Crown Street to incorporate premises between Reservoir Street and Campbell Street, and south of Cleveland Street to include the site of the new Surry Hills shopping centre are also proposed. The proposed boundary of the extended areas is shown in Figure 3 below.
77. Surry Hills is an established late night area. The proposed area incorporates night time premises that have established since 2007, clustering along Crown Street, Commonwealth Street, Holt Street, Fouveaux Street and in Strawberry Hills on Devonshire Street. These areas are zoned B4 mixed use which allows for business as well as residential uses. These premises are currently located outside late night precinct and trade until 12am, with some larger pubs or karaoke premises closing later.
78. Fouveaux Street between Elizabeth Street and Little Riley Street is considered a suitable location for more late night activity, as it includes mainly commercial uses including six night time premises which trade until 12am or 1am, and only a small proportion of residential development. While the proposed area boundaries exclude predominantly residential streets in Surry Hills west, in some locations the opportunity to trade to 2am may be limited due to impacts from patron dispersal on residential amenity.



**Figure 3** - New Local Centres proposed at Chippendale, Redfern and Surry Hills, shown in red hatch. Solid colours indicate current late night trading areas.

#### *Lankelly Place, Potts Point*

79. The Draft DCP includes a minor extension of the Kings Cross Local Centre area to include the west side of Lankelly Place north to Orwell Street, which is currently excluded from the late night trading area. The Local Centre will benefit from extended hours for lower impact (Category B) premises to 2am if entry and egress is to a main street.
80. This minor extension will incorporate premises located on Lankelly Place and the Metro Theatre of Orwell Street and ensure trading hours for new premises are consistently applied to ensure the activation of the laneway.

**Encouraging a more diverse night time economy**

81. The Draft DCP includes provisions to encourage later opening shops and businesses and more performance, creative or cultural activities in dedicated venues and licensed premises. Having more diverse late night trading attracts a wide range of people of different ages and interests, and creates a safer and more balanced night-time economy.

*Later opening shops and businesses*

82. The Draft DCP proposes a new category of trading hours for any shop or business premises which does not sell, supply or allow the consumption of liquor on or off the premises. It is proposed these uses may have extended trading hours up to 24 hours in Late Night Management and City Living Areas, from 7am to 2am in Local Centre areas and from 7am to midnight in areas outside of the nominated precincts.
83. Providing a mix of uses and later opening times for non-food and drink uses may help attract a wider range of people out at night for different activities. It is broadly accepted that attracting a more diverse crowd at night can increase safety and surveillance, potentially reducing crime and anti-social behaviour. Later trading hours may give businesses the flexibility to choose to open later, to participate in events and festivals and provide opportunities for people to shop at their convenience after work.
84. This new category comprises premises which contribute to the liveability, vibrancy and safety of an area, and do not create noise or encourage anti-social behaviour. The category includes shops, for example those selling clothing, books, stationery and homewares, or businesses such as drycleaners, banks and hairdressers.
85. To encourage these shops and businesses to open later, trial periods will only be imposed in sensitive locations where an adverse impact needs to be managed and monitored. This avoids imposing unnecessary regulatory costs on business owners.
86. The new category does not apply to convenience stores and takeaway food and drink premises because of the potential for anti-social behaviour to occur at these locations when licensed venues close. Standalone gyms located in buildings which also contain residential uses are also excluded due to the noise that can be generated from exercise equipment. Food and drink premises are excluded because they can obtain a licence and evolve into a higher risk use. These uses will continue to be considered as lower impact (Category B) premises.
87. The proposal is consistent with the objectives of OPEN Sydney to encourage a more diverse, inviting, safe and responsive city at night and actions to 3.1.1 to consider policy options to extend retail operating hours further into the evening. It also responds to consultation with community and industry which called for more diverse night time uses, including late opening shops close to where people live. The proposal will complement the proposals under the City's Open and Creative City project to allow shops and businesses in high streets and the City Centre to extend trading hours until 10pm without an additional approval. This project is continuing to be developed by staff.

*Performance, cultural and creative uses*

88. The Draft DCP incentivises performance, cultural and creative uses in licensed premises, such as bars and pubs, and dedicated performance venues such as theatres, halls and cinemas which are located in late night trading areas. This is done by providing additional hours and patron numbers.

89. The amendments propose that:
- (a) Dedicated performance venues can be treated as lower risk premises (Category B), if they have up to 250 patrons, rather than 120 patron limit that applies to other licensed premises.
  - (b) Dedicated performance venues (with up to 250 patrons) in late night trading areas, are permitted one additional trading hour at closing time.
  - (c) Licensed venues in late night trading areas that have the capacity to put on performance, are permitted one additional trading hour at closing time on the night they provide at least 45 minutes of performance.
90. These provisions will not be applied to karaoke bars, nightclubs or adult entertainment venues. All hours above base hours will only be approved on a trial basis.
91. The City's definition of performance, creative and cultural uses aligns with the definition in clause 102 of the Liquor Regulation 2018. It includes live entertainment, where people are engaged to play or perform live or pre-recorded music, or a performance where performers are present. Cultural and creative uses are also incorporated into the City's definition, including the display, projection or production of an artwork, craft, design, media, image or immersive technology, and the rehearsal, teaching or discussion of art, craft, design, literature, performance, ideas or public affairs.
92. Consultation on the City's Open and Creative City project and with the City's Nightlife and Creative Sector Advisory Panel has indicated that often music, creative and cultural performance does not occur due to prohibitive costs of producing events. The Panel has advised that allowing up to 250 patrons supports the viability of a dedicated performance venue.
93. The increase in patrons is reasonable in dedicated performance venues and considered to be low risk, because it is broadly accepted that patrons drink less when they are watching or engaged in a performance.
94. In licensed venues, such as bars, small bars, pubs and registered clubs, performance, creative or cultural uses can already occur. The Draft DCP encourages performance to happen more often, with an additional trading hour. Venues must apply for the opportunity to have one more hour at closing time on the night they stage performance. To open the extra hour they must stage at least 45 minutes of performance any time after 6pm. A new requirement to update Plans of Management to demonstrate how performance would be managed to minimise impacts on residential amenity includes outlining procedures for notifying residents of when performance is proposed.
95. The proposal to allow increased trading on the night of a performance, aligns with the NSW Government's exemptions for performance in the lockout and liquor licence freeze areas. However the Draft DCP does not make this extra trading contingent on performance occurring after 12am in the same way as the Government provisions. This is due to the potential impacts on residential amenity later in the night, and the likely limited uptake by venues, as people typically attend performance earlier in a night.

96. These proposals respond to the outcomes of consultation which supported the provision of more diverse late night uses including performance, the objectives of OPEN Sydney strategy to diversify Sydney's nightlife and action 3.1.2 to promote later trading cultural venues.

#### **Other amendments**

97. A number of other DCP changes are proposed to provide more certainty to the community and proponents about late night trading and improve the operation of the DCP.

#### *Category B trading hours outside precincts*

98. The Draft DCP includes trading hours for lower impact (Category B) premises outside the late night trading areas in Table 3.7 of the DCP. It proposes indoor trading hours from 7am to 10pm with extended hours to midnight and outdoor trading hours from 7am to 8pm base with extended hours to 10pm.
99. Currently the DCP only includes hours for higher impact (Category A) premises outside of the nominated precincts, with no hours provided to guide a merit assessment of trading hours undertaken for lower impact (Category B) premises. This does not provide sufficient certainty for proponents or the community.
100. The proposed hours are more restrictive than those within late night trading areas. This is because these areas may not have the benefit of transport and supporting shops or businesses and be located closer to residential development. However, there may be locations where longer hours are acceptable. The Draft DCP allows the approval of applications to exceed these hours if they are located where there is good transport accessibility and where the operation of late night premises is not likely to impact residential amenity.

#### *Consolidated Plan of Management requirements*

101. The Draft DCP refines and consolidates the Plan of Management requirements for higher impact (Category A) premises and lower impact (Category B) premises into a single list.
102. Plan of Management requirements are currently listed in the DCP under Category A or B, and those for Category B are in the form of a checklist. The requirements for Plans of Management for Category A premises include liquor licence related measures that are the responsibility of NSW Liquor and Gaming and not enforced by the City. A single list of requirements that can be tailored in their application to either Category A or B premises is proposed to ensure that the provisions more user friendly and enforceable.

#### *Morning trading in food and drink premises*

103. The Draft DCP proposes changes to extended indoor and outdoor opening hours, on a trial period basis, to accommodate morning service in food and drink premises such as restaurants. Extended indoor and outdoor trading hours for food and drink premises in Local Centres currently start at 8am, 9am or 10am for Category B across the different late night trading areas. These hours do not allow for morning coffee and breakfast service in these premises. The Draft DCP proposes indoor trading hours to start from 7am in Local Centres and 'all other areas.' Extended hours for outdoor trading are proposed to be 7am for Category B premises across all areas, and 9am for Category A premises.

*24 hour gyms*

104. The Draft DCP allows the approval of 24 hour standalone gyms that are not located in buildings with residential in Local Centres. This is provided that the tenancy does not share a common wall with residential accommodation, entry and egress is onto a main street and not a residential laneway or area and a Plan of Management addresses operational noise. All hours above base hours will only be approved on a trial basis.
105. This provision will provide clarity for proponents and the community and safeguards to ensure that these uses can be integrated into Local Centre areas with minimal impact and also meet the needs of the local community.

**Amendments to the Late Night Trading DCP 2007 and Green Square Town Centre DCP 2012**

106. The Late Night Trading DCP 2007 still applies to a number of sites where the Minister for Planning is the consent authority. Green Square Town Centre Development Control Plan 2012 applies to the Green Square Town Centre.
107. It is proposed to have the Late Night Trading DCP 2007 and the Green Square Town Centre DCP 2012 adopt the amended provisions of the Sydney DCP 2012 for consistency and simplicity.
108. The establishment of a new City Living area at Barangaroo and a Local Centre area on land south of Cleveland Street to Vine Street in the Redfern-Waterloo Authority site, is proposed through an amendment to the Late Night Trading DCP 2007 maps and the application of the amended provisions.
109. The establishment of new Local Centre in the Green Square Town Centre is proposed through an amendment to the Green Square Town Centre Development Control Plan 2012 maps and the application of the amended provisions.

**Strategic Alignment - Eastern District Plan**

110. The Eastern City District Plan prepared by the Greater Sydney Commission in March 2018 is a 20 year plan to manage growth in the context of economic, social and environmental matters. The District Plan identifies 22 planning priorities and associated actions that support a liveable, productive and sustainable future for the district. The Draft DCP is consistent with the following planning actions from the Eastern District Plan:
  111. Actions under Liveability priority E4 seek to facilitate opportunities for creative and artistic expression and participation, with a minimum regulatory burden and to encourage a diversity of approaches to revitalise high streets. The DCP offers later trading hours for venues which provide performance, cultural and creative uses, and encourages shops and businesses as well as licensed premises, to open later to increase the vitality of Local Centres, increase street activity and the sense of safety.
  112. Actions under Productivity priorities E7, E8 and E11 aim to strengthen the competitiveness of the Harbour CBD, the innovation corridor and Green Square and grow the vibrancy of these places by providing a diverse and vibrant night-time economy. The DCP encourages more diverse late night trading, including performance, cultural and creative uses in areas across the CBD and in new Local Centres in Chippendale and Surry Hills west. New late night trading precincts are proposed within the innovation corridor at Barangaroo and Chippendale to support a strong night time economy.

113. The DCP also achieves actions to strengthen Green-Square Mascot through approaches that remove barriers to cultural and creative uses with new Local Centres in Green Square and a Late Night Management area in North Alexandria. North Alexandria is a unique opportunity for live entertainment and cultural uses in an industrial area without conflict in land use, character or impact on residential amenity.

### **Strategic Alignment - Sustainable Sydney 2030 Vision**

114. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. The Draft DCP is aligned with the following strategic directions and objectives:
- (a) Direction 1 - A Globally Competitive and Innovative City: The Draft DCP proposes a 24 hour City Centre new precincts, later trading hours and encourages a diverse late night time offering consistent with the City's vision and community's expectation for a global city.
  - (b) Direction 5 - A Lively and Engaging City Centre: The Draft DCP proposes to extend the mix of late opening shops, businesses and licensed premises across the City Centre and encourage more performance, creative and cultural uses.
  - (c) Direction 6 - Vibrant Local Communities and Economies: The Draft DCP proposes to extend trading hours in the City Centre and local centres for shops, businesses and performance and cultural uses and low impact licensed venues to encourage more diverse and vibrant late night trading.
  - (d) Direction 7 - A Cultural and Creative City: The Draft DCP incentivises performance, creative and cultural uses in dedicated performance venues and licensed premises located in late night trading precincts in the city.

### **Social / Cultural / Community**

115. The Draft DCP responds to issues raised by the community in early consultation about the late night trading in the city. The provisions aim to encourage more diverse social and cultural activities at night to match the needs of a growing and changing population. The Draft DCP aims to balance the different needs of the community, by encouraging a diversity of well run late night businesses in suitable locations.

### **Economic**

116. The Draft DCP supports the city's night time and cultural sectors which are worth \$4.1 billion and \$1.4 billion respectively. Increasing and diversifying late night trading in the City may strengthen Sydney's global competitiveness and economic output, by creating more jobs and tourism, attracting longer hotel stays and the long term retention of younger people in the economy. The proposals seek to encourage business at night by extending the area where late night trading can occur in the City Centre, allowing shops and businesses to stay open later with less regulatory burden and encouraging a diversity of later trading hours for shops, businesses and low impact venues in appropriate locations.

**Relevant Legislation**

- 117. Environmental Planning and Assessment Act 1979.
- 118. Environmental Planning and Assessment Regulation 2000.

**Public Consultation**

- 119. If Council resolves to approve the Draft DCP, the controls will be placed on public exhibition. Public exhibition of draft DCP is a statutory requirement under the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000. The minimum exhibition period is 28 days.
- 120. The public exhibition is to be notified in numerous ways, including by way of:
  - (a) advertisement on the City of Sydney website;
  - (b) advertisement in the Sydney Morning Herald and relevant local newspapers;
  - (c) the Sydney Your Say website; and
  - (d) directly inviting comments from key industry stakeholders, such as advocacy groups, industry organisations and government agencies.

**GRAHAM JAHN, AM**

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