

Attachment B

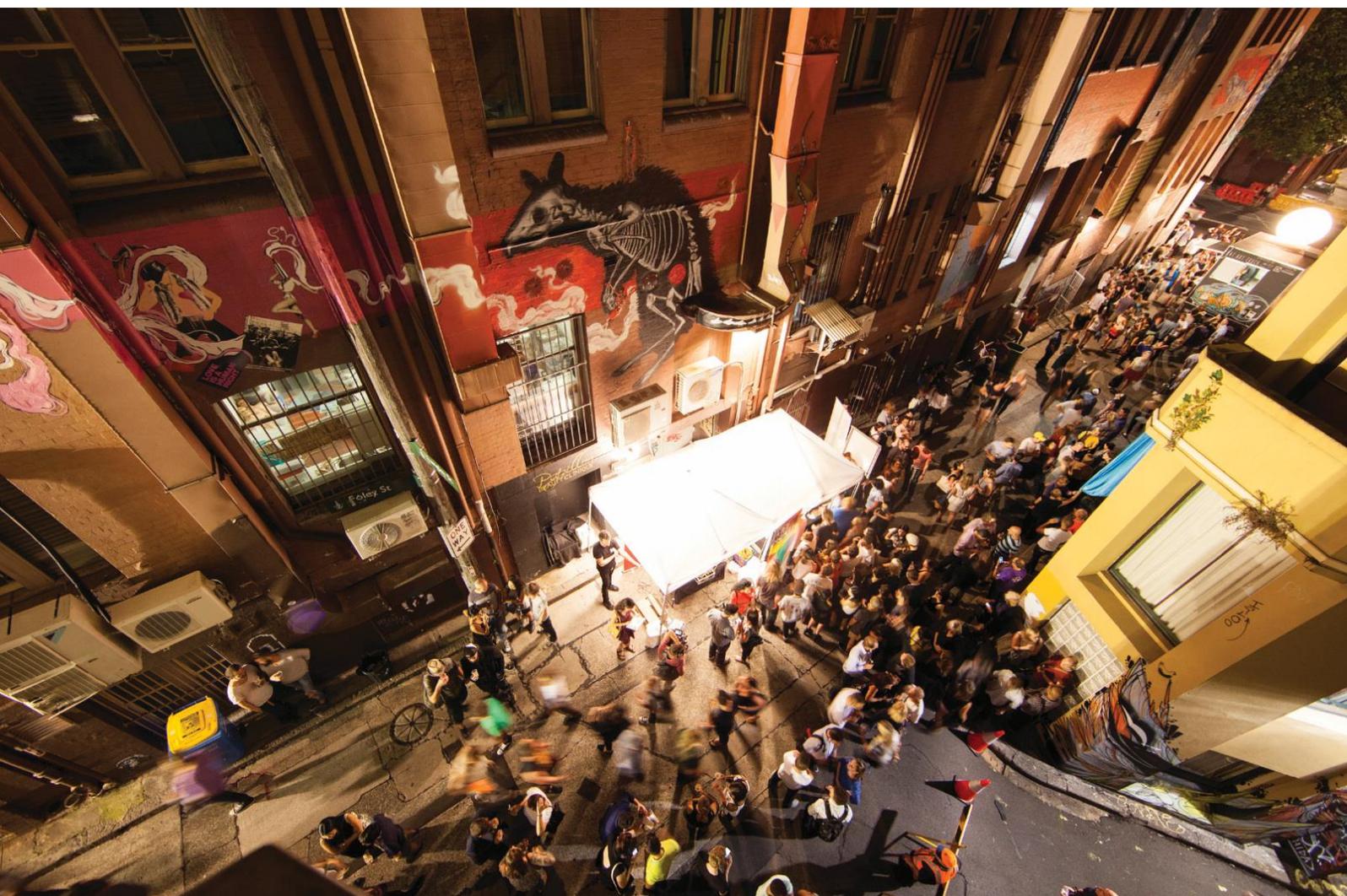
**Draft Sydney Development Control Plan:
Open and Creative Planning Proposals**

**(Excluding Entertainment Sound
Management)**

Draft Sydney Development Control Plan: Open and Creative Planning Reforms

City of Sydney
Town Hall House
456 Kent Street
Sydney NSW 2000

May 2020



Contents

The purpose of the Development Control Plan	2
Citation.....	2
Land covered by this Plan	2
Relationship of this Plan to other Development Control Plans	2
Schedule 1: Amendment to Sydney Development Control Plan 2012 Small scale and other cultural activities	4

The purpose of the Development Control Plan

- 1) The purpose of this Development Control Plan (DCP) is to amend various development control plans applying to the City of Sydney local government area by inserting provisions that:
 - a) define small scale cultural and performance activities
 - b) outline thresholds of activity for small scale cultural and performance activities which are considered to be low impact
 - c) outline the matters to be addressed in Plans of Management for cultural activities
 - d) provide guidance on alternative solutions for small scale cultural activities to meet the *National Construction Code*

Citation

- 2) This amendment may be referred to as *Sydney Development Control Plan 2012: Open and Creative Planning Reforms*.

Land covered by this Plan

- 3) This amendment applies to the City of Sydney Local Government area.

Relationship of this Plan to other Development Control Plans

- 4) This plan amends *Sydney Development Control Plan 2012* as follows:
 - a) At the end of section 4.4 - insert new section 4.4.X *Small scale and other cultural activities* containing new objectives, definitions and provisions as shown at Schedule 1.
- 5) This plan amends the *Green Square Town Centre Development Control Plan 2012* as follows:
 - a) Include a new section '*Small scale and other cultural activities*' in section GSTC 12 'Other Development Types and Uses' to include the following text:

In accordance with clause 3.43(3) of the Environmental Planning and Assessment Act 1979 this Development Control Plan adopts the provisions of the Sydney Development Control Plan 2012 in sections 4.4.X Small scale and other cultural activities
- 6) This plan amends the *Harold Park Development Control Plan 2011*, as follows:
 - a) Include a new section '*Small scale and other cultural activities*' in Section 5 'Building Use, Form and Design' to include the following text:

In accordance with clause 3.43(3) of the Environmental Planning and Assessment Act 1979 this Development Control Plan adopts the provisions of the Sydney Development Control Plan 2012 in sections 4.4.X Small scale and other cultural activities

Schedule 1: Amendment to Sydney Development Control Plan 2012 Small scale and other cultural activities

[1] Amendment to section 4.4 'Other development types and uses.'

4.4.X Small scale and other cultural activities

This section guides the provision of temporary small scale and other cultural activities in the city, to provide social and economic benefits for residents, workers and visitors and meet the community's expectations for a vibrant, diverse and evolving cultural life.

These activities involve making or presenting creative content such as film, music, art, craft or performance. They may be irregular or one-off events held in adapted spaces on a small scale or regular activities in permanent venues, theatres, galleries or entertainment spaces.

Advice on fire safety upgrades

The *National Construction Code* (NCC) and NSW land use planning definitions do not address the potential range and unique characteristics of creative uses. Despite their size and sometimes temporary nature, these uses can be classified as entertainment or Class 9b of the NCC, which is characterised by much larger uses with greater impacts. Imposing the requirements for a Class 9b space to small and often temporary creative spaces can result in onerous fire and safety provisions.

Council has prepared technical guidelines to outline alternative solutions for fire safety and building compliance standards for cultural activity taking place in existing building spaces less than 500 square metres. These include a checklist of specifications which address floor space, occupancy, travel distances between exits, exit capacities, stage size, sanitary provision and nature of stairways and ramps.

This checklist may assist operators in choosing the right types of buildings and ensure that minimal, if any works need to be done to make them suitable, while maintaining compliance with the fire safety and building requirements under the NCC and the *Environmental Planning and Assessment Act 1979*. Certifiers will be responsible for deciding whether a proposal complies with the National Construction Code.

In determining a development application for small scale cultural activities Council will take into account any measures implemented in accordance with the *Technical Guidelines for Small Scale Cultural Activities in Spaces Less than 500 Square Metres* when considering clauses 93 and 94 of the *Environmental Planning and Assessment Regulation 2000*.

Note

Notwithstanding the above, these guidelines do not override the Council's statutory obligations to ensure fire protection and structural capacity in proposals for changes of use or alterations of buildings under clauses 93 and 94 of the Environmental Planning and Assessment Regulations 2000. The Technical Guidelines will be considered in the assessment of applications, however there may be situations where they will not be applicable due to unacceptable levels of fire risk.

Definitions

Small scale cultural activities include:

- (a) live entertainment, (being an event at which one or more persons are engaged to play or perform live or pre-recorded music, or a performance at which at least some of the performers are present in person), including the presentation or rehearsal of music, film, theatre, spoken word, comedy or dance, or
- (b) the production or an event in association with an exhibition of art, craft, design, media, image or immersive technology, or
- (c) teaching or discussion related to (a) or (b).

Amplified sound means sound which is generated, provided or aided through the use of any electrically powered device. This includes but is not limited to the following: use of a public address system, bullhorn/megaphone, loudspeaker or any speaker or subwoofer, power amplifier, stereo system. It includes both background music and foreground music.

Background music means pre-recorded music played through no more than two electrically amplified speakers, which is intended as an accompaniment rather than the main focus of an audience/event. Background music is played at a soft, low volume/low amplification level which does not require persons to elevate their voices to hold conversations. It is not audible within any separate premises and does not create nuisance.

Foreground music or sound means any music or sound, amplified or not, which is directly played as a primary source of entertainment, or focus of entertainment to people who are attending an activity.

Objectives

- (a) To provide guidance for the provision of small scale cultural and performance activities in existing and new buildings where amenity impacts are managed according to scale and risk
- (b) Manage impacts of small scale cultural and performance activities on the amenity of the surrounding area

Provisions

Guidance for low impact small scale cultural activities

The following guidance is provided to assist operators in understanding the suitability of building spaces for small-scale cultural and performance events. Criteria is included to demonstrate the thresholds of activity which the Council considers to result in minimal impacts.

If an operator can demonstrate in a development application that the following criteria are satisfied, the Council's assessment may focus on the site-specific impacts of the proposal on neighbourhood amenity, such as sound generation.

- (1) Development applications for small scale cultural activities which meet the following criteria will be considered to be low impact. The activity:

- (a) Accommodates less than 120 patrons
- (b) Occurs in a building with an operative development consent or other legal entitlement to operate as a retail, office, industrial premises or community facility
- (c) Occurs in a building with a current annual fire safety statement which enables occupation of the building for its current approved use
- (d) Complies with the alternative technical solutions to the *National Construction Code*
- (e) Occurs no more than 52 days a year, no more than 8 days a month, or 4 consecutive days a month
- (f) Is no longer than 4 hours in duration, excluding set up and pack down
- (g) Finishes no later than 10pm if in a B2 Local Centre or B4 Mixed Use zone
- (h) Finishes no later than midnight if in a B3 Commercial Core, B5 Business Development, B6 Enterprise Corridor, B7 Business Park, B8 Metropolitan Centre and IN1 General Industrial zone
- (i) Does not include amplified music, but may include background music and the use of a microphone for the duration of the event
- (j) Includes the supply of alcohol subject to a liquor license or caterers authorisation
- (k) Provides adequate access to sanitary facilities. Where access is provided off site, this does not impact the amenity of separate noise sensitive locations
- (l) Is subject to a Plan of Management which manages potential impacts on adjoining and surrounding land uses in accordance with the section XX below.

Guidance for other cultural activities

The following guidance is provided for other cultural activities which do not meet the low impact criteria in XX above.

Development applications for these cultural activities will be assessed taking into account a number of issues, which may include but are not limited to the:

- (a) location and context of the premises where the cultural activity will be held, including the provision of facilities for the event and proximity to residential and other sensitive land uses
- (b) specific nature of the cultural event, its patronage, programming and entertainment, liquor licensing and duration
- (c) likely impact on the amenity of surrounding sensitive land uses and the ability

to manage these impacts. This may include, but not be limited to, the impact of amplified sound and sound from set up and pack down of the event

- (d) likely impacts arising from the opening and closing time of the event and patron arrival and dispersal on local amenity, local businesses, night time vibrancy and safety
- (e) measures to be used for ensuring adequate safety, security, waste management and crime prevention both on the site of the premises and in the public domain immediately adjacent to, and generally surrounding, the premises
- (f) accessibility and frequency of public transport during the operation of the event to ensure the efficient and safe movement of people and minimise impacts on local amenity
- (g) submission of a Plan of Management that includes measures for the good management of the event, particularly in relation to managing potential impacts on adjoining and surrounding land uses and premises, as well as the public domain.

Plans of Management for cultural activities

Plans of Management are to include information about the operational and contextual aspects of a premises which hosts a cultural activity and the actions that will be taken to ensure that premises will be responsibly managed, for example, crowd control procedures, noise minimisation and waste management.

This will ensure that operators have considered and addressed any potential impacts that may arise from their event. It is the responsibility of the operator to facilitate a well-managed premises and display sensitivity about the impact of the premises on the liveability of neighbourhoods.

- (1) Where the Council is of the opinion that proposals for cultural activities have the potential to impact adversely on amenity and neighbourhood safety, applicants may be required to prepare and submit with their application a Plan of Management to ensure that it operates with minimal impact on adjoining owners and occupiers. A Plan of Management should be accompanied by a signed declaration from the operator that they have read and understood the Plan of Management.

The Plan of Management should include details of:

- (a) the name and contact details of the operator
- (b) the times and days during which events are to occur
- (c) an emergency contact and address details for medical service, hospital, and police, in addition to emergency call triple zero "000"
- (d) the music, visual, performance, creative and cultural events that may be staged at the premises

- (e) the primary use of the premises as well as any secondary/ancillary uses. This shall include a floor and/or site plan that indicates the use of all areas within the building or site
- (f) the capacity of the space to host the small scale cultural activities including the location and dimensions the space, any stage and audience (standing or seating area) and equipment to present the cultural activity
- (g) the proposed operating hours for each day of the week for the small scale cultural activities at the premises
- (h) the maximum capacity of the premises and the maximum number of patrons that will be standing and/or sitting at the event any one time. The maximum capacity of specific areas of the premises should be updated to reflect fire safety requirement upon the issue of a construction certificate and the final Plan of Management submitted to the Council prior to the issue of an occupation certificate
- (i) the proximity of external doors, windows and other openings to residential and other sensitive land uses shown on a floor plan. The plan should also indicate the proposed layout of all areas of the premises and the location of waste storage areas, air conditioning, exhaust fan systems and security alarms
- (j) the staffing arrangements with the assigned duties of personnel for the event, including the number of staff to employed per patrons, security and the location or 24 hour contact details of any on-site manager, off-site manager or who has overall responsibility for the operation, administration, cleanliness, maintenance and fire safety of the premises
- (k) adequate provision for sanitary facilities at the small-scale or other cultural event
- (l) any liquor licenses to be utilised at the premises
- (m) any food service delivered through a catering authorisation, or an approved development consent for the preparation and service of food and drink on the premises
- (n) compliance for any food and/or drink service with the requirements of the Food Act 2003 and Food Standards Code
- (o) a policy that describes the measures to minimise harm associated with alcohol consumption to ensure the responsible service of alcohol (if it is served)
- (p) all likely sound and vibration sources associated with the operation of the premises. This may include such sources as:
- live performance and amplified sound; including the location of speakers and PA system and the wattage of amplification and any noise limiting devices to be installed
 - background music
 - external areas such as courtyards, rooftops, balconies etc;
 - patrons leaving and entering the premises;

- waste disposal, sorting and collection of bottles
 - ancillary equipment supporting the event e.g. generators, refrigerated shipping containers, air compressors or lighting stacks
- (q) all sound and vibration management and attenuation measures related to the use and operation of the premises
- (r) signage that is to be erected providing advice to patrons to maintain quiet and order when leaving and entering the premises
- (s) signage detailing the nearest transport options for patrons leaving the event
- (t) measures that will be taken to ensure that any queuing is controlled in a manner that will not adversely impact the amenity of the neighbourhood and that the footpath will not be unreasonably impeded
- (u) a waste management plan that outlines the procedures for minimising and managing waste that is generated by the premises. This should address such matters as disposal of bottles, how and when waste will be removed, details of waste management facilities, waste collection and storage areas
- (v) procedures for notifying neighbours about the nights when the event(s) will be held, including signage and/or letterbox drops advising of:
- the event name, including a description of the nature of the event, commencement, duration, and
 - completion date the name and telephone number for contacting the person responsible for the event at all hours during which the premises is operating.
- (w) all actions that will be taken to respond to complaints made about the operation of the premises
- (x) procedures for addressing complaints and a complaint register for identifying issues that have caused disturbance to the neighbourhood.