

Attachment A

**Draft Development Control Plan –
Entertainment Sound Management**

Draft Sydney Development Control Plan 2012: Entertainment Sound Management



Purpose

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 new and amending existing provisions that:

- (a) outline sound management requirements for new and significantly altered entertainment venues;
- (b) outline sound management requirements for new development that may be affected by entertainment sound;
- (c) outline the methodology and matters to be addressed in a Noise Impact Assessment submitted with development applications for entertainment venues and sensitive receivers; and
- (d) include new maps to identify land that may be affected by entertainment sound.

Citation

This amendment may be referred to as Sydney Development Control Plan: Entertainment Sound Management.

Land covered by this plan

This amendment applies to the City of Sydney Local Government Area.

Relationship of this plan to other development control plans

This plan amends *Sydney Development Control Plan 2012* as follows:

- (a) Insert a new section 3.18 'Entertainment sound management' in accordance with Appendix 1.
- (b) Amend section 3.15.4 'Trading hours and trial periods' in accordance with Appendix 2.
- (c) Insert new Entertainment sound management maps in accordance with Appendix 3.

This plan amends *Green Square Town Centre Development Control Plan 2012* as follows:

- (a) Amend section GSTC 6.10.8 'Acoustic and visual privacy' in accordance with appendix 4.
- (b) Insert a new section GSTC 13 'Entertainment sound management' in accordance with appendix 5.
- (c) Insert new Entertainment sound management maps in accordance with appendix 3.

Appendix 1

1. Insert a new section after section 3.17 with the following text:

3.18.3. Entertainment sound management

Definitions

Entertainment sound means amplified or live sound associated with music, entertainment and performance, and from patrons while they are inside the development. It does not include other sound associated with the operation of a venue, such as mechanical ventilation, construction and waste management.

Entertainment sound generating activity means performance or activity including live entertainment, musical, film, rehearsal or performance, theatrical, comedy or dance performance that uses live or recorded music provided for the entertainment of patrons, which is typical but not exclusive to the following land uses:

- Entertainment facility
- Pub or registered club
- Restaurant or café
- Small bar

Sensitive receiver means residential accommodation and serviced apartments.

3.18.3.1 Development generating entertainment sound

Objectives

- (a) Ensure development is capable of providing diverse entertainment activities without resulting in amenity impacts to existing and future sensitive receivers.
- (b) Protect the health and amenity of people by managing entertainment sound ingress to sensitive receivers.

Provisions

- (1) This section applies to the following development:
 - (a) introducing a new entertainment sound generating activity;
 - (b) extending the trading hours of an existing entertainment sound generating activity beyond midnight;
 - (c) increasing the patron capacity of an existing entertainment sound generating activity by more than a third of the existing patron capacity;
 - (d) changing the external structure containing an existing entertainment sound generating activity by introducing new external penetrations, windows or doors; or
 - (e) internal alterations to an existing entertainment sound generating activity, where it is located in a mixed-use development with residential accommodation.
- (2) A Noise Impact Assessment prepared by a suitably qualified acoustic consultant is required, detailing the physical noise attenuation and other measures required to meet the requirements of this section, and demonstrating compliance with the sound criteria in Table 1 and 2.
- (3) Development specified for this section must comply with the external entertainment sound criteria shown in Table 1 as measured at the most affected property boundary of the nearest existing sensitive receiver. The measurement location is to be 1.5 metres from ground level at the site boundary.

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Table 1 External sound criteria as measured at the property boundary of the nearest identified sensitive receiver

Sensitive receiver	Time period	Sound criteria <small>L_{Zeq} (15 minute)</small>
Residential accommodation or serviced apartments	7am to midnight	Must not exceed 5dB above RBL in each octave band
	Midnight to 7am	Must not exceed RBL in each octave band

- (4) Development specified for this section must comply with the internal entertainment sound criteria shown in Table 2 as measured inside any habitable room of the nearest existing residential dwelling.
- (5) For Table 1, the rating background level (RBL) is the background L_{Z90} level for each 1/1 octave band from 31.5 Hz to 4 kHz, for the following periods measured in accordance with Fact Sheet B of the NSW Noise Policy for Industry:
- (a) 7am to 10pm
 - (b) 10pm to midnight
 - (c) midnight to 3am
 - (d) 3am to 8am

Table 2 Internal sound criteria as measured inside any habitable room of the nearest sensitive receiver

Sensitive receiver	Time period	Sound criteria <small>L_{Zeq} (15 minute)</small>
Residential accommodation or serviced apartments	7am to midnight	Must not exceed L _{Z90 (15 minute)} in each octave band
	Midnight to 7am	Must not exceed 12dB below L _{Z90 (15 minute)} or the threshold of audibility in each octave band
Where the dwelling is inside the same building	7am to midnight	Must not exceed 3dB below L _{Z90 (15 minute)} in each octave band
	Midnight to 7am	Must not exceed 12dB below L _{Z90 (15 minute)} or the threshold of audibility in each octave band

- (6) For Table 2, if the L_{Z90 (15 minute)} level in the octave bands 31 Hz to 500 Hz is less than the threshold of audibility values listed in Table 3, the values in that table shall be used.

Table 3 Threshold of audibility by octave band

Octave band	31.5 Hz	63 Hz	125 Hz	250 Hz	500 Hz

L_{Zeq}	51 dB	32 dB	18 dB	9 dB	3 dB
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- (7) The internal sound criteria in Table 2 and provision (4) prevail to the extent of any inconsistency with the external sound criteria in Table 1 and provision (3).

3.18.3.2 Development affected by entertainment sound

Objectives

- Protect the amenity of residents by reducing entertainment sound ingress.
- Enable the delivery of housing in mixed-use areas with entertainment sound generating activities.

Provisions

- The section applies to development for the purposes of new residential accommodation and/or serviced apartments, or where an alteration to an existing development involves conversion or delivery of additional dwellings, on the following sites:
 - on land where any part is identified on the *Entertainment Sound Management Map* as 'Land affected by entertainment sound';
 - on land identified on the *Entertainment Sound Management Map* as 'Additional land that may be affected by entertainment sound', to the extent that the part of the site or proposed built form has uninterrupted exposure to a mapped 'Existing live music and performance venue'; or
 - on the same site as an existing entertainment sound generating activity.
- A preliminary Noise Impact Assessment prepared by a suitably qualified acoustic consultant is to be submitted with a Site Specific DCP or Concept DA for development specified for this section, demonstrating how exposure to entertainment noise from a mapped existing venue has been reduced with appropriate siting, orientation and built form elements.
- Development specified for this section must comply with the internal criteria for sound from any pre-existing, planned or approved entertainment sound generating activities shown in Table 1.

Table 1 Internal criteria for entertainment sound

Residential accommodation	Octave Band Centre Frequency dB							
	L _{Zeq} (15 minute)							
Bedrooms								
Octave band	31.5 Hz	63 Hz	125 Hz	250 Hz	500 Hz	1 kHz	1 kHz	4 kHz
7am to midnight	60	50	39	30	25	20	15	13
Midnight to 7am	53	43	32	23	18	13	8	6
Other living areas								
Octave band	31.5 Hz	63 Hz	125 Hz	250 Hz	500 Hz	1 kHz	2 kHz	4 kHz
7am to midnight	65	55	44	35	30	25	20	18

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Midnight to 7am	55	48	37	28	23	18	13	11
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Note: For reference, the octave bands in Table 1 are approximately equivalent to the dBA levels in Table 2.

Table 2 Approximate dBA equivalent entertainment sound levels of Table 1. Note these are provided for reference only.

Residential accommodation	
<i>L_{Aeq} (15 minute)</i>	
Bedrooms	
7am to midnight	30 dB
Midnight to 7am	23 dB
Other living areas	
7am to midnight	35 dB
Midnight to 7am	28 dB

- (4) A Noise Impact Assessment prepared by a suitably qualified acoustic consultant is required for development specified for this section. The assessment is to establish the loudest existing *L_{Zeq} (15 minute)* sound context for any one hour period during the operation of venues for each 1/1 octave band between 31.5 Hz and 4 kHz. The assessment is to demonstrate attenuation from either the existing *L_{Zeq} (15 minute)* or the levels in Table 3, whichever is higher per octave band, to the internal sound criteria shown in Table 1.

Table 3 Minimum planned external entertainment noise spectrum

Octave band	31.5 Hz	63 Hz	125 Hz	250 Hz	500 Hz	1 kHz	2 kHz	4 kHz
<i>L_{Zeq}</i>	69	63	53	49	47	44	42	45

Note: For reference, the octave bands in Table 3 are approximately equivalent to 51 dBA.

- (5) For the purposes of (1)(b), “uninterrupted exposure” means a direct line of sight without intervening built form, or facing a street or road corridor with an uninterrupted street wall on both sides between the venue and the site. A preliminary urban design analysis with 3D modelling may be required to establish which parts of the site are exposed and which are protected by existing or proposed built form elements.
- (6) To meet the criteria shown in Table 1, development may propose to attenuate the entertainment sound at an existing source. Where this is proposed, the proponent must demonstrate the attenuation measures:
- will be effective at meeting the sound criteria in Table 1;
 - have the consent of relevant parties associated with the source of the entertainment sound; and

- (c) will last for the life of the proposed development, or have a management plan to ensure their maintenance and continued use through change of ownership at the source.

Appendix 2

1. Edit the text in section 3.15.4 'Trading hours and trial periods' provisions (1) – (15), with strikethrough representing deletion and underlines addition.

These provisions identify base and extended trading hours within the three late night trading areas and for premises located outside of these areas.

Approvals for late night trading premises will be limited in time to enable Council to assess the ongoing management performance of a premise and its impacts on neighbourhood amenity. These trial periods allow Council the flexibility to review the conditions on development consents and respond to such things as change in the late night character of a neighbourhood and changes in management.

- (1) Base and extended hours that apply to particular late night trading areas are identified in Table 3.8 Late night trading hours.

Table 3.8 Late night trading hours

		Category A		Category B		Category C
		Indoor	Outdoor	Indoor	Outdoor	Indoor
Late Night Management Area	Base	6am to midnight	10am <u>9am</u> to 10pm	6am to 2am	7am to 10pm	24 hours
	Extended	24 hours	9am to 1am	24 hours	7am to 1am	
City Living Area	Base	7am to 11pm	10am <u>9am</u> to 8pm <u>10pm</u>	7am to 1am	7am to 8pm <u>10pm</u>	24 hours
	Extended	7am to 5am	9am to midnight	7am to 5am	7am to midnight	
Local Centre Area	Base	10am <u>9am</u> to 10pm	10am <u>9am</u> to 8pm <u>10pm</u>	7am to 11pm	7am to 8pm <u>10pm</u>	7am to 2am
	Extended	10am <u>9am</u> to midnight	9am to 10pm	7am to midnight*	8am to 10pm	
All other areas	Base	10am to 10pm	10am to 8pm	7am to 10pm	7am to 8pm	7am to midnight
	Extended	10am to midnight	10am to 10pm	7am to midnight	7am to 10pm	

*Refer to (2) below

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- (2) Notwithstanding Table 3.8, proposals for extended indoor hours of Category B premises in Local Centre Areas up to 2am may be approved but only if Council is satisfied that entry and egress of all patrons will be onto a main street and not onto a laneway which abuts residential properties, or into a predominantly residential area.
- (3) Any hours that are beyond base hours will be subject to a trial period.
- (4) Council may permit trading hours that exceed extended hours for 'all other areas' if it has considered matters in 3.15.3 and provided that:
 - (i) The premises is not located in a R1, R2 (residential) or ~~B4~~ MU1 (mixed-use) zone; and
 - (ii) The premises is located within 800 metres walking distance of the public entrance to rail station or ferry wharf with operating and available services, or 400 metres to the public entrance to a light rail station or platform, or a bus stop with operating and available services.
- (5) Council will consider proposals for stand-alone gyms in Local Centres to exceed the trading hours in Table 3.8 if:
 - (i) the gym is not located in a building with residential accommodation;
 - (ii) the tenancy within which the gym will be located has no common wall to residential accommodation;
 - (iii) Council is satisfied that entry and egress of all patrons will be onto a main street and not onto a laneway which abuts residential properties, or into a predominantly residential area;
 - (iv) no outdoor operation of the gym is proposed;
 - (v) a Plan of Management is approved addresses noise impacts described in Schedule 3, 3.2(d).
- (6) Extended trading hours beyond base hours may be permitted at the initial application stage, but only where the Council has determined that the premises have been or will be well managed, including compliance with an approved Plan of Management.
- (7) At the completion of a trial period a new application must be lodged to either renew existing trial hours or to seek an extension of trading hours.
- (8) Premises seeking extended trading hours may be permitted up to ~~two~~ three additional operating hours per trial period if a previous trial period is considered by the Council to have been satisfactory, unless eligible for an additional one trial hour under sections 3.15.4 (16) and (17).
- (9) Trial periods may be permitted up to the following durations:
 - (a) First trial – ~~1 year;~~ 2 years;
 - (b) ~~Second trial—2 years;~~
 - (c) ~~Third~~ Second and subsequent trials – 5 years.
- (10) Once the full range of extended trading hours is reached an application must be lodged every 5 years to renew trading hours.
- (11) Applications for a renewal or extension of trial trading hours should be lodged 30 days prior to the expiry period and applicants will be allowed a period of 'grace' from the termination of the trial period until the new application has been determined. During this period, the premises may continue to trade during existing approved trial hours.
- (12) If an application is not lodged 30 days prior to the expiry of the trial period, then approved trading hours will revert to base trading hours.

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- (13) A renewal or extension of trading hours that are subject to a trial period may only be permitted if Council is satisfied that a late night trading premises has demonstrated good management performance and compliance with a plan of management, following the completion of a satisfactory trial period.
- (14) When Council is assessing trial period applications, it will consider whether a venue has demonstrated good management performance, based on matters including but not limited to:
- (i) whether the trial period hours have been utilised;
 - (ii) the nature and extent of any substantiated non-compliances with development consent or liquor license conditions, particularly those relating to public safety and impacts on amenity;
 - (iii) responses to substantiated complaints, including complaints recorded on the venues complaints register;
 - (iv) Compliance with the approved Plan of Management for the venue;
 - (v) consideration of complaints to Council and the State licensing authority under the Liquor Act 2007;
 - (vi) an assessment of inspections by Council Officers during trial periods; and
 - (vii) consideration of any submission made by Police.
- (15) If the Council determines that a trial period has been unsatisfactory then trading hours will revert to the base late night trading hours or whatever hours have been approved as the maximum trading hours prior to the commencement of this DCP. Council will consult with an applicant prior to making such a determination.

