

Item 3.

Post Exhibition - Entertainment Sound Management - Sydney Development Control Plan 2012 Amendment and Special Entertainment Precincts Discussion Paper

File No: X009155.021

Summary

The City of Sydney is home to a diverse nightlife, with a long history of mixed and lively neighbourhoods. To support the continued growth of the night-time economy while accommodating new housing in well-located areas, the City has developed a planning framework for the management of entertainment sound, alongside a proposed approach to introduce Special Entertainment Precincts to further encourage the nighttime economy and live entertainment.

This report follows the public exhibition of Entertainment Sound Management - Sydney Development Control Plan 2012 and Special Entertainment Precincts Discussion Paper.

The Draft Development Control Plan – Entertainment Sound Management (draft DCP):

- (a) establishes acoustic requirements for new residential development near existing venues and late night precincts (mapped areas) to better protect existing venues
- (b) establishes acoustic requirements for the design and construction of new and substantially changed venues to provide certainty for venue operation and protect neighbours, and
- (c) makes it easier to trade later with longer trial hour increments and removing the initial one-year trial period.

The City received 63 submissions in response to the draft DCP. Responses broadly supported the concept of balancing support for night-time activity with measures to reduce negative impacts to residents, particularly using soundproofing measures and managing late night trading hours. Many responses questioned how the planning controls may affect existing residents and venues. Submissions advocated for the addition and removal of some live music and performance venues, and the associated affected areas in the draft Entertainment Sound Management Maps.

The City also separately consulted through a discussion paper on Special Entertainment Precincts, which if supported, can:

- (a) unlock incentives from the NSW Government for liquor licence fee discounts and additional licencing hours;
- (b) allow the City to put in place bespoke sound criteria that suit the context of the area and encourage live music and entertainment; and
- (c) make it easier for many licenced and unlicenced businesses to trade later without a development application.

The proposed approach is to upgrade the City's long-standing late night trading areas to Special Entertainment Precincts to encourage live music and entertainment.

A total of 271 surveys and 85 emailed submissions were made in response to the discussion paper. There was strong support for the proposal to designate the existing late night trading areas as Special Entertainment Precincts. Most people felt the trading hours are about right for the Local Centre and City Living areas, while the Late-Night area hours are too early. There were specific suggestions of areas to be added, removed, upgraded or downgraded. Proposed amendments to the areas are mapped.

This report describes the outcomes of the exhibition and recommends changes be made to the draft DCP and the approach to Special Entertainment Precincts in response to the submissions.

The draft DCP and approach for Special Entertainment Precincts together presents a comprehensive strategy for the sustainable growth of Sydney's entertainment and nightlife sectors. By addressing both the construction of new developments and the operation of existing and new venues, these policies are intended to foster a lively cultural scene, encourage investment in entertainment areas, and protect residential amenity in mixed-use precincts.

This report recommends Council approve the draft DCP – Entertainment Sound Management. It also recommends that Council approve the establishment of Special Entertainment Precincts, with the next steps being the preparation of a precinct management plan and a planning proposal to amend the local environmental plan (LEP).

Recommendation

It is resolved that:

- (A) Council note the matters raised in response to the public exhibition of the draft Development Control Plan - Entertainment Sound Management as shown in Attachment A to the subject report;
- (B) Council approve the draft Development Control Plan - Entertainment Sound Management and maps as shown at Attachment B to the subject report;
- (C) authority be delegated to the Chief Executive Officer to make minor amendments to draft Development Control Plan - Entertainment Sound Management and maps to correct any minor errors or omissions prior to finalisation;
- (D) Council note the matters raised in response to the public exhibition of the Special Entertainment Precincts Discussion Paper as described in Attachment C to the subject report; and
- (E) Council endorse the establishment of Special Entertainment Precincts in late night trading areas identified in Attachment D to the subject report.

Attachments

Attachment A.	Draft Entertainment Sound Management DCP - Summary of Submissions
Attachment B.	Sydney Development Control Plan 2012 - Entertainment Sound Management and maps
Attachment C.	Engagement Report - Special Entertainment Precincts Discussion Paper
Attachment D.	Special Entertainment Precincts Maps

Background

1. The City's late night trading planning controls were adopted in 2007. The Development Control Plan (DCP) mapped late night trading areas and established trading hours for venues according to the type of precinct and type of venue. It encouraged greater diversity in Sydney's nightlife with later trading for small bars and good management through trial periods for extended trading hours. The controls were reviewed in 2019 to extend and create new late night trading areas and incentivise live music and performance with additional trading hours.
2. The OPEN Sydney Strategy was adopted in 2013 after extensive consultation with the community and industry and established the City's long term vision for its night-time economy. One of the actions of this strategy is to investigate changes to planning controls to support the night-time economy and support venues.
3. In June 2020, Council endorsed the Open and Creative Planning Reforms to deliver on the planning actions of this strategy. The reforms included acoustic design criteria that would implement the "agent of change" principle, protecting both future residents from sound impacts and future venues from complaints by new development. The reforms were publicly exhibited, and submissions received in response to the sound criteria highlighted technical issues with the controls and the details of their application.
4. Following the City's work from before 2020, in December 2023, the NSW Government introduced the Vibrancy Reforms, which when implemented in July 2024 significantly changed the regulatory environment for entertainment sound. Sound complaints are subject to higher requirements, especially for new residents, Liquor and Gaming NSW have taken over responsibility for handling sound complaints, and council-imposed sound conditions of consent, no longer have an enforceable role in sound complaint management for liquor licensed venues.
5. The Vibrancy Reforms also introduced a new framework for Special Entertainment Precincts, with NSW Government guidelines being finalised in November 2024.

Entertainment Sound Management DCP (draft DCP)

6. The draft DCP includes requirements for new development to manage sound. These requirements will apply to new residential development near existing venues, and to new and expanding venues. It sets baseline entertainment sound requirements for the local government area, over which Special Entertainment Precincts will provide context-appropriate variations in future.
7. The draft DCP includes the following:
 - (a) New residential development, also known as 'sensitive receivers', located near existing venues and 24 hour late night trading areas will need to be built to protect new residents from existing entertainment sound in the neighbourhood. This reduces the risk of complaints that could lead to existing venues having to change operations, and protects the amenity of new residents.
 - (b) For new and substantially changed venues, the development is to be built to a standard that provides existing residents reasonable sound attenuated amenity. The required sound levels are largely consistent with City's current practice and compatible with Liquor and Gaming NSW conditions.

8. The proposed controls do not apply retrospectively to existing buildings and include clear thresholds for when they will be called up in a development application. They do not apply to existing dwellings in any circumstances. The proposed controls only apply to existing venues that significantly increase their sound impacts, which is defined by certain activities and thresholds.
9. The draft DCP also includes proposed amendments to the operation of trial periods and extended trading hours. The initial trial period of 1 year is proposed to be removed, leaving the 2 year and 5 year trial periods, and the increment of extended trading hours is proposed to increase from 2 hours to 3 hours per trial. Outdoor trading is also proposed to extend to 10pm where it is currently 8pm, and for morning trading from 9am where it is currently 10am.

Summary of submissions

10. Following Council's approval to publicly exhibit the draft DCP in October 2024, the draft DCP together with the Special Entertainment Precincts Discussion Paper was publicly exhibited for an extended period between 21 November 2024 and 20 January 2025.
11. In total 72 submissions were made to the draft DCP exhibition by email and survey response, of which 63 were unique and related specifically to the draft DCP. 53 of these submissions were from individuals, 6 from industry, and 4 from community groups (including one strata owners corporation).
12. A summary of and response to all themes and issues raised in submissions is available at Attachment A. Below are the most significant themes raised in submissions.

Issue 1: Impacts of the Night-Time Economy

13. 7 submissions raised concerns about the night-time economy, objecting to measures supporting nightlife and late-night activities due to potential impacts on residents. These concerns included entertainment sound, vehicle noise (including emergency sirens), noise from people, waste servicing and anti-social behaviour.
14. The draft DCP aims to support the night-time economy's growth while protecting residents' amenity by ensuring new developments and venues have adequate soundproofing and noise attenuation. 8 submissions supported soundproofing for venues and/or new residential developments to mitigate entertainment sound impacts.
15. Growing the night-time economy is a long-term strategic objective for the City of Sydney and a current priority for the NSW Government. Efforts to manage impacts include public domain improvements, street lighting, public toilets, advocating for better night-time transport and policing, and engaging with businesses and community groups through liquor accords, Uptown Districts and Purple Flag accreditation. The City will continue working with the NSW Government, businesses and the community on these ongoing initiatives.

Issue 2: Applicability to Existing Development

16. 7 submissions raised concerns about the draft DCP's impact on existing residential development, particularly for landowners of dwellings identified as "affected by entertainment sound" on the entertainment sound DCP maps. 4 submissions questioned the inclusion of Dawes Point, a state heritage-listed area, on these maps. 2 industry submissions raised concerns about the applicability to existing venues.

17. Submissions highlighted potential impacts on property prices, and the perception of a changed expectation of entertainment sound exposure, affecting residents' ability to make noise complaints and potentially encouraging venues to produce more sound. For venues, industry submissions raised concerns the controls could prevent small-scale cultural performances or minor property amendments due to expensive acoustic upgrades.
18. DCP provisions apply only in the case of a development application. Minor or low-impact activities covered by exempt or complying provisions are not affected. The DCP maps do not influence noise complaint enforcement, and they do not as-of-right allow venues to make more noise.
19. The draft DCP provisions specify when they apply to development applications. For residential development, they only apply if a new dwelling is created. Alterations and additions to existing dwellings do not trigger the provisions. For existing venues, the provisions apply to significant changes, such as expanding the venue by over a third, trading past midnight, or creating new external penetrations.
20. For Dawes Point, state heritage listings limit new development opportunities, so there is limited utility in DCP provisions that only apply to new development. A post-exhibition amendment is proposed to remove Dawes Point from the maps.
21. To prevent misinterpretation of the DCP maps, a post-exhibition amendment is proposed to re-label identified sites as "sensitive receivers" with radius 1 or radius 2. Supporting changes to the DCP will reference these labels.

Issue 3: Trial Periods and Trading Hours

22. Submissions were mixed regarding the proposed changes to trial periods and trading hours. 6 submissions advocated for keeping the existing controls or making them more restrictive, while 5 supported the proposed changes or further relaxations, including removing trial periods altogether.
23. The proposed amendments are minor and based on the City's experience in handling noise complaints, managing entertainment sound impacts, and assessing development applications for extended trading hours and trial period renewals. The City has pursued a balanced approach, finding an opportunity to reduce unneeded administrative burden and restrictions on businesses while limiting the potential for impacts.

Issue 4: Venues Identified on the Entertainment Sound DCP Maps

24. The draft DCP maps identified 151 venues with live music or performance offerings. During the exhibition, the City invited suggestions for venues to be removed or added.

25. Proposed Removals:

- (i) Venues in Dawes Point, Millers Point and Walsh Bay, as they affect state heritage-listed properties unlikely to invoke DCP provisions for new housing development.

26. Proposed Additions:

- (i) The Abercrombie in Chippendale, identified as a significant live music and performance venue.
- (ii) The Loft and The Basement at the University of Technology Sydney, noted for their significant live music and performance offerings.
- (iii) The White Horse in Surry Hills, historically a live music venue and included for its future potential.

27. Other suggestions for venues without notable live music or performance offerings are not proposed for addition.

28. Industry submissions highlighted venues in Central Sydney not identified on the DCP maps. Central Sydney is a Late Night Trading Management area, identified in its entirety on the DCP maps, allowing venues to open and change over time without map updates.

Proposed amendments to the DCP

29. In line with the above, the following post exhibition amendments are proposed to the draft entertainment sound DCP:

- (a) Properties identified on the entertainment sound DCP maps will be labelled as "sensitive receiver" rather than "affected by entertainment sound".
- (b) Walsh Bay and Millers Point will be excluded from the entertainment sound DCP maps.
- (c) The Abercrombie in Chippendale, The White Horse in Surry Hills, and The Loft and the Basement at the University of Technology Sydney will be added to the venues identified on the entertainment sound DCP maps.

Special Entertainment Precincts discussion paper

30. The discussion paper set out the City's proposed approach to designate long-standing late night trading areas as Special Entertainment Precincts. The approach adopts the base hours in the DCP for each area as the precinct plan hour, which will be as-of-right trading hours. Extra hours to incentivise live music and performance will also be available as-of-right. Extended trading hours would continue to be possible through development application approvals. Bespoke sound criteria would also be developed for the precinct plan, informed by sound studies.

Summary of engagement

31. In total, 356 people made submissions about making our late-night trading areas into special entertainment precincts, of which 271 people made survey submissions and 85 people emailed submissions.

32. There is strong support for the proposal. Of survey respondents, 50% support the proposal and 20% support with changes. The main reasons people support the proposal are:
- (a) Support for growth in night life
 - (b) Support for cultural and nightlife diversity
 - (c) Support for flexibility for businesses
33. 25% were not supportive of the proposal and 5% were not sure.
34. The following themes emerge as the most common concerns:
- (a) Concerns about noise affecting residents
 - (b) General noise concerns
 - (c) Safety concerns
35. The full engagement report is available at Attachment C.

Issue 1: Boundaries / areas

36. On balance, there was general support for the proposal to designate the late night trading areas as special entertainment precincts.
37. Late night trading areas were designated initially in 2007. The exhibition of the areas in the discussion paper has provided a timely review of the late night trading areas and their boundaries.
38. There were many suggestions for sites or areas to be added, removed, upgraded, or downgraded. These suggestions have been reviewed and evaluated on their merit. There are 4 proposed amendments to the areas:
- (i) The removal of a residential (R1 zoned) section of Crown Street between Devonshire Street and Arthur Street, to align with the use of this area.
 - (ii) Changes to the mapped areas of UTS on Broadway, to align with their current use.
 - (iii) An upgrade of the arts precincts in Walsh Bay from local centre (red) to city living area (yellow) to better support its offer as a significant cultural destination.
 - (iv) The extension of the Oxford Street late night trading area to include the National Arts School (156 Forbes Street) and QTOPIA Sydney (301 Forbes Street) as a City Living area.
39. These proposed amendments can be viewed in the maps in Attachment D.

40. It is proposed that these changes would be made to both the special entertainment precincts and the DCP mapped late night trading areas. The changes would be made in tandem as part of the same future proposal and be subject to future public consultation. They are not recommended for council endorsement as part of this report.

Issue 2: Trading hours

41. The proposed approach adopts the base hours in the DCP for each area as the precinct plan hours, with the addition of extra hours to incentivise live music and performance. The precinct plan hours and the live music and incentive hours can be obtained as-of-right. Extended trading hours would continue to be permitted through development application approvals and successful trial periods.
42. We asked survey respondents to evaluate the spread of hours proposed for each type of precinct and rate them on a sliding scale from too early to too late.
43. Overall, respondents think the trading hours proposed for Local Centres and City Living precincts are right for the areas, and the hours proposed for Late Night precincts are too early.
44. People also provided more specific feedback in their submissions about the appropriateness of the proposed trading hours for the business category and for the locations.
45. The feedback on trading hours will be considered in the development of the future precinct management plan.

Issue 3: Sound criteria

46. While no sound criteria were included in the discussion paper, the survey included a general question on what sound levels should be to support vibrancy, live music and performance. Approximately half of respondents opted for sound levels to be no louder than they are now.
47. Concern about the potential impact of noise was a common theme in the survey and in submissions.
48. This included impacts of potential increased noise on residents such as affecting sleep, disrupting peaceful living and a right to quiet. It often referenced existing issues with venues or areas, patrons leaving venues, music volumes, lack of sound proofing, noise from increased traffic or people in the streets and the need to control or mitigate sound.
49. If the approach is endorsed, the feedback will be considered alongside acoustic advice and sound studies to establish proposed future sound criteria.

Next steps

50. If endorsed, the next step is the preparation of a precinct management plan, including sound studies to identify sound criteria. To designate special entertainment precincts, a report will come back to Council with a planning proposal to amend the local environmental plan. Further consultation on the proposal and precinct management plan would follow. Due to the complexity and extent of the sound studies required by the NSW Government's guidelines, it is expected that a planning proposal and supporting documents will be reported to Council before end of 2025.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

51. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This policy is aligned with the following strategic directions and objectives:
- (a) Direction 1 - Responsible governance and stewardship - The draft DCP demonstrates responsible governance by setting clear entertainment sound controls that balance the needs of a vibrant night-time economy with protecting residential amenity. The controls work in alignment with the NSW Government Vibrancy Reforms without causing confusion for venues or the community. By focusing on venue design and construction standards rather than operational noise enforcement, the DCP defines the City's role in managing entertainment
 - (b) Direction 4 - Design excellence and sustainable development - The draft DCP promotes design excellence by requiring consideration of entertainment sound impacts early in the development assessment process. This approach allows developers to proactively address sound management through siting, orientation, and other passive solutions, reducing the need for compromised design outcomes or solutions that impact amenity. By embedding sound performance criteria into the early stages of development, the DCP ensures that new entertainment venues and residential buildings are designed to manage sound effectively, fostering sustainable, well-integrated urban environments.
 - (c) Direction 7 - Resilient and diverse communities - The City's proposed approach to Special Entertainment Precincts supports resilient and diverse communities by designating all late-night trading areas within the local area as entertainment precincts. This ensures a wide distribution of venues, promoting diversity in late night activities, entertainment offerings and locations all over the local area, rather than concentrating activity and benefits to a few areas to a select group of venues.
 - (d) Direction 8 - A thriving cultural and creative life - The DCP supports a thriving cultural life by protecting live music and entertainment venues from noise complaints, ensuring they can continue to operate while coexisting with nearby residential areas. This policy aligns with the City's goal of growing creative industries and protecting cultural uses and floor space.
 - (e) Direction 9 - A transformed and innovative economy - The sound management strategy aligns with the City's vision for an innovative economy by supporting the entertainment and hospitality sectors. It fosters an environment where businesses can thrive, contributing to Sydney's global competitiveness.

Organisational Impact

52. The Entertainment Sound DCP has no organisation impact, nor does the designation of Special Entertainment Precincts. In the next stages of work, consideration should be given towards resourcing for governance of Special Entertainment Precincts.

Risks

53. City staff have undertaken a risk assessment identifying potential risks and mitigation measures.
54. Progressing with the draft DCP and special entertainment precincts proposal is within the City's risk appetite:
 - (a) The City encourages employees to engage with the community as guided by the 'Our approach to engaging the community'.
 - (b) We aim to strike a balance between achieving our strategic objectives, implementing change and embracing innovation, and protecting our reputation.
 - (c) We are committed to conducting our activities in full compliance with applicable laws, regulations and relevant industry standards.

Financial Implications

55. There are no budget implications for Council for an Entertainment Sound Management DCP.
56. Special Entertainment Precincts will require the procurement of acoustic expertise to undertake sound studies and recommend sound criteria. If endorsed, this will be included in the draft budget for the next financial year.
57. NSW Government offers a Special Entertainment Precinct Kickstart Grant Program which provides funding for activities such as for strategic planning activities, preparing acoustic criteria and/or undertaking community engagement. A resolution from Council to establish Special Entertainment Precincts in specific mapped area(s) is an eligibility requirement for the grant.

Relevant Legislation

58. Environmental Planning and Assessment Act 1979.
59. Environmental Planning and Assessment Regulation 2021.
60. Liquor Act 2007.
61. Liquor Regulation 2018.
62. Local Government Act 1993.

Public Consultation

63. Public consultation took place from 21 November 2024 to 20 January 2025 on both the draft DCP and Special Entertainment Precincts.

64. Multi-media communications encouraged people to find out more about the proposals, attend a briefing session and provide feedback through the Sydney Your Say pages. This included:
- (a) 49,034 notification letters, notifying 24,248 owners and 24,786 residents.
 - (b) An email newsletter to 938 email addresses.
 - (c) Promotion through social media including TikTok, Instagram and Linked In. The Instagram reel was extremely popular at over 46,000 views.
 - (d) Over a period of 35 days, the campaign generated approximately 100 media mentions in a range of news sources.
65. Engagement included:
- (a) 271 people made survey submissions on Special Entertainment Precincts
 - (b) 85 email submissions on Special Entertainment Precincts
 - (c) 63 email submissions on the draft DCP
 - (d) 82 people attended community briefing session on 3 December 2024
 - (e) 52 people attended a business briefing session on 3 December 2024
 - (f) 17 young people attended a briefing for the youth opportunities program
66. Findings are summarised above and described in Attachments A and C.

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