

## **PURPOSE**

Council determines the operating hours for businesses seeking to trade at night in the Wollongong CBD through the development assessment process.

Whilst businesses trading at night have the potential to create environmental and social impacts, this policy recognises that many businesses are low impact premises that make an important contribution to the diversity and vitality of Wollongong's Night Time Economy.

This policy seeks to provide clarity regarding appropriate locations and hours of operation for these businesses.

## **POLICY INTENT**

- Establish appropriate hours of operation for businesses in the Wollongong CBD.
- Concentrate low impact businesses which trade at night in appropriate locations.
- Provide clarity to proponents, regulatory bodies and the community regarding trading at night.
- Mitigate potential impacts of businesses trading at night on residents and other business.
- Establish requirements for development applications for businesses seeking to trade at night.

The main objectives of this policy are to:

1. Enable the ongoing cultural evolution of the Wollongong CBD Night Time Economy.
2. Provide a consistent, clear and transparent assessment process for proponents.
3. Encourage a safe Night Time Economy that is comprised of vibrant and diverse businesses.
4. Foster good relations between residents of the Wollongong CBD and businesses which trade at night.
5. Concentrate appropriate venues within Wollongong LGA's established night trading precinct.

## **WOLLONGONG 2028 OBJECTIVES**

This policy supports the following Wollongong 2028 objectives:

- We have an innovative and sustainable economy
- We have a creative, vibrant city

## SCOPE

This policy applies to land zoned B3 Commercial Core, B4 Mixed Use and SP3 Tourist within the Wollongong City Centre, as defined by the Wollongong Local Environmental Plan 2009.

This policy applies to businesses seeking to operate beyond 10pm, including the following land uses; Amusement centre, Cultural venue, Entertainment facility, Function centre, Information and education facility, Kiosk, Markets, Recreation facility (indoor), Recreation facility (major), Restaurant or café, Shop, Small bar and Take away food and drink premises. See APPENDIX 1 – DEFINITIONS for explanation of the applicable land uses.

This policy also applies to temporary and mobile land uses, including; special events, pop-up venues and mobile food and drink outlets.

This policy does not supersede the provisions of the Liquor Act 2007 or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 with regard to hours of operation.

## POLICY

### 1 OPERATING HOURS

Most businesses may operate within the maximum operating hours listed in Tables 1 and 2, subject to development assessment.

**Table 1: Operating Hours – General**

LAND USE ZONE	INDOOR HOURS	OUTDOOR AREA WITHOUT RESIDENTIAL INTERFACE	OUTDOOR AREA WITH RESIDENTIAL INTERFACE
B3 Commercial Core	2am <i>Thursday Friday Saturday only</i>	2am	12am (midnight)
B4 Mixed Use SP3 Tourist	2am <i>Friday and Saturday only</i>	12am (midnight)	10pm

**Table 2: Operating Hours – Cultural Venue**

LAND USE ZONE	INDOOR HOURS	OUTDOOR AREA WITHOUT RESIDENTIAL INTERFACE	OUTDOOR AREA WITH RESIDENTIAL INTERFACE
B3 Commercial Core	2am <i>Thursday, Friday and Saturday only</i>	2am	2am
B4 Mixed Use SP3 Tourist	2am <i>Friday and Saturday only</i>	2am	12am (midnight)

On the days not listed in the tables, operating hours will be generally limited to 12am (midnight), or 10pm where an outdoor area has a residential interface.

In some unique circumstances, non-licenced uses requiring extended access and operation may be permitted to operate outside these hours, up to 24 hours a day, where assessed as appropriate e.g. 24-hour gyms, emergency services etc.

## 2 RESIDENTIAL INTERFACE

A site is considered to have a residential interface where there is a clear physical, visual or acoustic interface with residential accommodation located on the subject lot, on an adjoining or adjacent site, or where the development site adjoins a residential zone. This includes instances where an interface is interrupted by a road.

There may be instances where the physical characteristics of the site or built form clearly interrupt such an interface. In these instances, a variation to the residential interface controls may be considered.

An acoustic report may be required where an application proposes to operate until or beyond 12am (midnight) and has a residential interface.

The report must be prepared by a member of the Australian Acoustic Society or the Association of Australian Acoustic Consultants and be submitted with the development application. The report must assess the noise both indoor and outdoor and recommend a suitable attenuation plan to meet applicable noise criteria provided by the NSW Environmental Protection Agency, Independent Liquor & Gaming Authority and Liquor & Gaming NSW.

## 3 TRIAL PERIOD

Where trade beyond midnight is approved, a condition of consent will be placed on any consent issued limiting the operation within proposed hours up to 24 months. At the cessation of the trial period the hours will revert to reduced hours.

The applicant may apply to modify the consent to extend the trial period or to remove the condition permanently. The assessment of the trial period will be based on:

- Site inspections by Council officers during the trial period.
- Consideration of formal customer complaints to Council.
- Submissions made during exhibition period.
- Consultation with Wollongong Police and Liquor & Gaming NSW.
- Relevant crime statistics.
- Other relevant planning considerations.

## 4 DEVELOPMENT ASSESSMENT

The businesses to which this policy applies generally require development consent and an application made under Part 4 of the *Environmental Planning and Assessment Act 1979*. Part 4 of the Act provides the matters for consideration in the assessment of such an application.

In addition to the hours provided in Tables 1 and 2, the assessment of operating hours will be based on:

- Proximity to residential development, sensitive land uses and other late trading premises.
- Impact on acoustic amenity.
- Scale of proposal and patron capacity.
- Suitability of Venue Plan of Management.
- Safety, security and crime prevention impacts on site and the public domain.
- Accessibility of transport options.
- Potential Social impacts.
- Submissions made during exhibition period.
- Consultation with Wollongong Police.
- Cultural contribution to the Night Time Economy.

## 5 VENUE PLAN OF MANAGEMENT

A Venue Plan of Management will be required to be submitted with the development application which seeks to operate until or beyond 12am (midnight).

The Venue Plan of Management must be developed in consultation with the Wollongong Police and must include information that addresses the following matters:

### ALL LAND USES

- Description of the primary use of the premises as well as any secondary or ancillary use.
- Hours of operation for all indoor and outdoor areas.
- Maximum patron capacity.
- Staff numbers.
- Security measures, including security, CCTV, visual surveillance and lighting.
- Noise management measures, including internal and outdoor areas.
- Waste management, including storage and disposal procedure.
- Emergency procedures.
- Consultation undertaken in development of this venue plan of management.
- Management of queuing outside the premises, including measures to mitigate impacts on local amenity and use of the footpath.
- Management of patron behaviour when leaving the premises, including measures to preserve local amenity.

### LICENCED VENUES ONLY

- Incident management system.
- Complaint management system.
- Current or proposed liquor licence details.
- Management of patrons whom are intoxicated, violent, refused service or asked to leave.
- For venues operating beyond midnight, consideration of 12am or 1am last entry policy.

Council may request further information regarding the management of premises if it is considered that the proposal will adversely impact on the amenity of the area or as required by the Wollongong Police.

The Venue Plan of Management is to be reviewed on an annual basis in consultation with the Wollongong Police. The consultation is to be commenced at least three months before the end of the annual period.

### ROLES AND RESPONSIBILITIES

ROLE	RESPONSIBILITY
Development Assessment and Certification Development Project Officer	Consider provisions of policy in assessment of development applications.

### RELATED POLICIES AND PROCEDURES

A City for People

Environmental Planning and Assessment Act 1979

Liquor Act 2007

NSW Government - Guide for Establishing and Managing Night Time Economy Uses

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Wollongong Development Control Plan 2009

Wollongong Local Environmental Plan 2009

**APPENDIX****1 DEFINITIONS**

*Note: With exception of ‘cultural venue’, the listed land use definitions are consistent with those contained in the Wollongong Local Environmental Plan 2009.*

Amusement centre	means a building or place (not being part of a pub or registered club) used principally for playing— (a) billiards, pool or other like games, or (b) electronic or mechanical amusement devices, such as pinball machines, computer or video games and the like.
Business premises	means a building or place at or on which— (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or (b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.
Cultural venue	means a venue or premises otherwise listed in this policy, that provides an offering that contributes to the cultural diversity of the Wollongong CBD, beyond the service of food and drink. This can include art, museum, recreation, live music, theatre, entertainment and alike.
Entertainment facility	means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.
Function centre	means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.
Information and education facility	means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.
Kiosk	means premises that are used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.
Market	means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.
Recreation facility (indoor)	means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley,

ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

Recreation facility (major)	means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.
Residential accommodation	means a building or place used predominantly as a place of residence, and includes any of the following; (a) attached dwellings, (b) boarding houses, (c) dual occupancies, (d) dwelling houses, (e) group homes, (f) hostels, (g) multi dwelling housing, (h) residential flat buildings, (i) rural workers' dwellings, (j) secondary dwellings, (k) semi-detached dwellings, (l) seniors housing, (m) shop top housing, but does not include tourist and visitor accommodation or caravan parks.
Restaurant or cafe	means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.
Shop	means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop and neighbourhood supermarket, but does not include food and drink premises or restricted premises.
Small bar	means a small bar within the meaning of the <i>Liquor Act 2007</i>
Take away food and drink premises	means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.

APPROVAL AND REVIEW		
Responsible Division	Community, Cultural and Economic Development	
Date/s adopted	<i>Executive Management Committee</i> 1 September 2020	<i>Council</i> 16 November 2020
Date/s of previous adoptions	Nil.	
Date of next review	November 2022	