

**Submission
No 322**

SYDNEY'S NIGHT TIME ECONOMY

Organisation: Local Government NSW

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Draft submission to the Parliamentary Inquiry of the Joint Select Committee on Sydney's night time economy

July 2019

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Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State. LGNSW thanks the Committee for the opportunity to respond to the Terms of Reference for the Inquiry into Sydney's night time economy. This submission is in draft form until endorsed by the LGNSW Board. Any revisions made by the Board will be forwarded.

Purpose

The night time economy in NSW has been the subject of considerable debate following the NSW Government's *Liquor Amendment Act 2014* (lockout laws) and its impacts on the Sydney metropolitan area.

The Joint Select Committee on Sydney's night time economy has been asked to inquire into measures required to:

- a) maintain and enhance community safety;
- b) maintain and enhance individual and community health outcomes;
- c) ensure existing regulatory arrangements in relation to individuals, businesses and other stakeholders, including Sydney's lockout laws, remain appropriately balanced;
- d) enhance Sydney's night time economy;
- e) and any other directly relevant matters.

This inquiry provides a timely opportunity to consider the Government's approach to enhancing local economies at night and consider ways to foster a vibrant night time economy in both Sydney and in regional NSW.

Background to this submission

Scope

This submission is made from a state-wide perspective and is not limited to the discussion of Sydney. Indeed, different local government areas in NSW have different night time economies. The NSW Government's recently produced *NSW Guide for establishing and managing night time economy uses* (December 2018) refers to the following segments of the night time economy:

- Early evening: 6-9pm
- Evening: 9-11pm
- Night: 11pm-2am
- Late-night: 2-6am

Councils across NSW will be focused on different segments of the night time economy, and enhancing these segments in different ways, depending on their local circumstances. LGNSW's comments are focused on issues of state-wide importance. In this submission, LGNSW does not seek to offer detailed discussion of technical aspects. LGNSW urges the Inquiry to consider the submissions made by individual councils on these issues.

Please note the City of Sydney has put forward its own detailed submission and recommendations to this inquiry, which should be considered separately by the Committee as they are not included as part of this submission.

Recent developments

This submission follows on from LGNSW's February 2018 submission to the Parliamentary Inquiry on the Music and Arts Economy in New South Wales and has reinforced some of the same proposals. Since the submission last year several councils have made in-roads in developing night time economy strategies for their local government areas. This includes Lake Macquarie Council's *Night Time Economy Strategy and Action Plan* which was adopted by Council on the 11 June 2019 and Waverley Council's *Bondi Junction Evening, Culture and Entertainment Strategy* which was endorsed in late 2018.

NSW Night Time Economy Councils' Committee (NTECC)

Comments in this submission have also been influenced by the NSW Night Time Economy Councils' Committee (NTECC), of which LGNSW is a member. NTECC was established in late 2016 by the City of Sydney, Parramatta and Newcastle Councils. NTECC now comprises a total of eleven councils including Wollongong City, Waverley, Liverpool City, City of Canterbury-Bankstown, Lake Macquarie City, Northern Beaches, Penrith and Inner West Councils. These councils have shown interest and expertise in developing the Night Time Economy.

Those on the NTECC are staff members with a diverse range of knowledge, including economic development, community safety, urban design, place making, culture and advocacy. Councils from Greater Sydney and some regional areas attended NTECC's first event - the NSW Night Time Economy Councils' Forum held in October 2017. Following the Forum, council staff were invited to join an online Night Time Economy practitioners' network. The network comprises 160 council officers from over 50 councils in NSW. The wider network was also invited to provide comments for this submission.

NTECC has two primary objectives – advocacy and capacity building – and has so far hosted four free NTE masterclasses for council staff which have been well attended. The most recent masterclass, Making Space for Culture, was held in June and had 100 people registered. The success of the NTECC shows there is a real appetite among councils in NSW to develop their night time economies and establish clear policies and strategies. The NTECC is a valuable resource for the NSW Government to draw upon.

Recommendation 1: That the NSW Government consults with the NTECC, the NTECC member councils, and the wider council network (through LGNSW), to seek input and feedback on proposals for the night time economy which affect councils.

Response to the terms of reference

In this section LGNSW addresses each of the terms of reference.

This submission has been informed thorough consultation with councils.

(a) to inquire into measures required to maintain and enhance community safety

Cities and town centres should be designed to encourage increased participation after dark from people of all ages engaged in a variety of activities. Increasing diversity of both activity and demographics later into the night has been proven to improve the safety of the night environment. In doing so, community safety is enhanced through passive surveillance by members of the community as they go about their lives. Put simply, a diverse night time economy is a safe one.

Crime Prevention through Environmental Design

Key aspects of community safety must underpin the planning of a night time economy. Councils are primarily involved in creating safe environments after dark through three functions:

- 1) compliance and regulation,
- 2) proactive design and planning, and
- 3) responding to safety concerns from the community and advocacy of related issues

Note: This section will address proactive design and planning, and responding to community concerns. Compliance and regulation will be addressed below in answer to the third Term of Reference.

Councils are of the view that it is integral that Crime Prevention Through Environmental Design (CPTED) is an established norm for all projects – particularly projects which include activity at night. Well-designed public spaces are important to ensure feelings of safety.

The *Crime Prevention through Environmental Design Guidelines for Queensland (2007)* suggest that to design and manage our built environments to be safer, there are three main principles:

- 1) ensure that people are around to reduce the likelihood that crimes will occur,
- 2) ensure that people are able to see what is happening (clear sight lines), and
- 3) give people options and safe choices, particularly in their responses to what is happening.

Ensure that people are around to reduce the likelihood that crimes will occur

In response to the first principle, cities around the world are seeking to enhance their night time economies by ensuring that there is a diverse range of activities available at night, and this attracts a diverse range of people out at night. If cities are successful in encouraging people to stay out later at night without the focus on alcohol consumption then this can lead to increased surveillance and ultimately crime prevention.

It's important to ensure that these night time activities and spaces also cater for the needs of teenagers and young people. For example in the UK city of Nottingham, with the assistance of Night Time Economy Solutions Ltd, businesses have even offered mini golf and video gaming as way to appeal to a new demographic of people looking to enjoy the city at night. Particularly as many friends are now made online, public meet up places are essential, as are activities which are not alcohol-related. Night time economy operators have also realised the safety benefits of catering to women and families.

Ensure that people are able to see what is happening

In response to the second principle, councils are looking to incorporate crime prevention through environmental design (CPTED) into their planning from the outset.

For example, at Penrith City Council, development assessments within the city centre are reviewed by that council's Community Safety Team and feedback on improvements to CPTED are recommended through this process. At the City of Parramatta, the Crime Prevention Strategy is very strong on incorporating CPTED as a principle in development consent conditions, master planning, and lighting strategies. Inner West and Waverley Councils are also looking to increase visibility at night through increasing outdoor dining and other outdoor activities. The new *Bondi Junction Evening, Culture and Entertainment Strategy* encourages alfresco dining, acknowledging that increased alfresco dining brings activity onto the streets and increases perceptions of activity and safety within Bondi Junction.

Give people options and safe choices, particularly in their responses to what is happening

In response to the third principle transport is key. Councils are calling on the NSW Government to ensure that sufficient public transportation is provided to allow for people to get to and from night time areas safely.

Transport is an essential element to the success of the night time economy, by attracting people to town centres and enabling them to return home safely. The planning and placement of transport to night time venues is vital and needs to be done well to ensure there is efficient removal of people once they leave a venue, and reduced opportunities for noise and alcohol related violence and vandalism issues. There are also potential road safety benefits of additional public transport options at night.

Public transport is also essential to supporting a strong and thriving economy, by providing workers access to new areas for employment. Improved transport across NSW and Greater Sydney will enable more people to live, work and play in the same area. Government should continue work to spread employment and encourage night time opportunities and precincts in other strategic centres such as Parramatta, Liverpool, Penrith and regional areas so that people are more inclined to participate in the night time economy after work.

The NSW Government should, at minimum, conduct and promote a trial of 24 hour frequent public transport on Friday and Saturday nights in the greater Sydney region. The Government should also seek to finalise the trials (with a goal to making them permanent) of first/last mile public transportation to bridge the gap between the bus/train station, work, or home. First and last mile transport has been a major part of the revitalisation of Detroit. The City of Detroit has partnered with ride-share company Lyft to offer a new pilot program for late-night commuters on select transit corridors. The City of Detroit has currently allocated funds to subsidise over 2,000 rides, at an average length per ride of 1.3 miles (2km).

Recommendation 2: That the NSW Government commits increased funding for existing programs including the Community Safety Fund, and the NSW Crime Prevention Grants to support the efforts of councils to increase safety in their communities.

Recommendation 3: That the NSW Government takes proactive measures to enhance community safety at night, and ensure a variety of demographics can experience the night time economy, by providing public late-night transport including:

- a) first/last mile options, and
- b) 24 hour services on Friday and Saturday nights.

(b) to inquire into measures required to maintain and enhance individual and community health outcomes

Night time economies are not only designed to make cities safer. They also make places more economically viable and culturally diverse, thus improving individual wellbeing and community outcomes.

Creative Cities

To achieve this, cities around the world focusing on being creative cities. The UNESCO Creative Cities Network (UCCN) was created in 2004 and now has 180 cities which work together to place creativity and cultural industries at the heart of their development plans at the local level. For example, five years ago the City of Sydney released its *Creative City Cultural Policy and Action Plan 2014 – 2024* and also released a 2017 discussion paper titled *An Open and Creative City: planning for culture and the night time economy*.

LGNSW notes that there has been recent work of the Department of Planning, Industry and Environment (DPIE) to review planning and building regulation frameworks for low impact arts and cultural uses in commercial premises. We call on the Government to finalise this important work.

Night time economies which embrace art, culture and creativity have been found to enhance sustainability, prosperity and inclusiveness. This is the key driver for Toronto-based firm 'ArtScape' which works to embed arts and culture into the urban planning and development of cities. One successful project of ArtScape, which the NSW Government could look to, is the redevelopment of the Historic Distillery District. ArtScape transformed the District using arts and entertainment, after numerous retail-based revitalisation projects had failed. The ArtScape Distillery Studios are now leased to over 60 artists and this vitality has led to new residential developments on the site. The district is now a major draw for tourists, leading to social and economic outcomes.

Recommendation 4: That the NSW Government improves community wellbeing by having a focus on cultivating creativity in NSW. Strategies should include seeking innovative ways to embed culture and creativity in existing commercial premises and innovative ways to transform larger districts into creative hubs.

Place-making

Another development strategy to enhance individual and community wellbeing is that of place-making. Place-making is about working with communities and businesses to create desirable and accessible public spaces. It's more than just promoting better public design, place-making additionally pays attention to the local character. Therefore, it is local government – which intimately knows the community – that has a unique role in facilitating place-making by recognising and enhancing the identity of local places. Local character is a key economic asset and councils work to find a balance between economic growth and the maintenance of local culture.

Councils are using place-making initiatives that focus on local identity to drive their night time economies. Examples include:

- 1) the month-long Ramadan festival by Canterbury-Bankstown Council which embraces the local Muslim religion and food culture;
- 2) the Float your Boat light festival by Lake Macquarie Council which embraces the environmental asset; and

3) the Queanbeyan River Precinct developed by Queanbeyan Palerang Regional Council which embraces the sloping lawns and proximity to Canberra to host evening concerts of Canberra Symphony Orchestra.

LGNSW welcomes the February 2019 release by the NSW Department of Planning, Industry and Environment of the *Local Character and Place Collection* online book which summarises the Department's year-long exploration in 2018 into the importance of local character to create sustainable communities. We would now like to see it put into practice.

As outlined above, place-making has been long practiced by the local government sector, and this will be further embedded in 2019 through the development of the Local Strategic Planning Statements by councils. LGNSW calls on the State to also consider place-making in NSW Government proposals relating to the night time economy.

Recommendation 5: LGNSW encourages the Department of Planning, Industry and Environment to implement the practice of place making into Government proposals relating to the night time economy to help achieve community health outcomes.

(c) to inquire into measures required to ensure existing regulatory arrangements in relation to individuals, businesses and other stakeholders, including Sydney's lockout laws, remain appropriately balanced

LGNSW is calling on the NSW Government to address existing regulatory arrangements in the following ways:

- **Simplify and reduce unnecessary complexity** in regulations affecting the night time economy including:
 - 1) planning legislation and regulation
 - 2) liquor licensing and regulation
 - 3) noise regulations and
 - 4) event approvals.

These four regulatory areas will be explored below. LGNSW recognises the work of the Government to-date on this task and urges for it to continue.

- Provide **clarity and guidance to councils** on the planning and regulatory framework relating to the NTE.

This should include clarity around the application of land use definitions and building regulations. The NSW Government is commended for releasing the *Guide for establishing and managing Night Time Economy uses* in December 2018. This guide is aimed at applicants. A practice note on building regulations for council staff would be welcome.

- **Better manage cumulative impacts of licensed venues** through evidence-based legislation in the *Liquor Act 2007*. Consideration should be given to anti-clustering provisions to manage concentrations of licensed premises and limitations on number and types of licensed premises, trading hours and patron numbers within an area.

1) Planning regulations

Exempt and complying provisions should enable small scale/low impact creative activities to be located in underutilised spaces or within existing uses in business zones. This should include provisions for small scale cultural uses to be permitted in existing commercial/industrial spaces as exempt or complying development, so long as they meet a set of specific development standards. Where these standards cannot be met, the use would default back to the standard DA process. For example, a café operating between 7am and 4pm, may want to rent out the space as an art gallery between 6pm and 10pm. Currently a DA would be required to do this which could deter operators due to cost, lack of trust for regulatory bodies or a fear of compromising their existing cafe approval. Allowing a small scale cultural use like hosting poetry readings in the same space through an exempt development pathway (no approval required) would remove these deterrents and encourage a positive night time activity.

2) Liquor licencing and alcohol regulations

Note: As the 2014 lockout laws impact a small section of the Sydney metropolitan area, the Committee is asked to refer to the submission from City of Sydney and other relevant bodies for comment. This LGNSW submission will focus on liquor laws which impact many council areas.

Councils are seeking:

- An integration of liquor and planning approval processes to remove duplication and focus on a single application, single public consultation and single Plan of Management (POM). This will assist in aligning conditions across liquor and planning consents and considering of cumulative impact upfront, rather than after a planning decision on the use of the land has been approved. It will also make it easier for business in providing a single process for them to go through.
- a review of the concierge service provided by Service NSW for applicants seeking to open restaurants and small bars. A review would examine the satisfaction level of councils and applicants and whether there has been a change in number of successful applications approved.

The streamlined liquor licence process for pop-up venues which is currently being led by Create NSW and trialed by Liquor & Gaming NSW in parts of the City of Sydney, Inner West, Parramatta and Liverpool local government areas is a good idea to enhance the night time economy, however, the trial was announced before consultation with local government occurred.

With the aim of educating the community, the NSW Government should also consult with councils on the potential to amend the *Local Government Act (1993)* relating to the creation of Alcohol Free Zones and Alcohol Prohibited Areas by councils, with a view to streamlining the two provisions to reduce community confusion.

3) Noise regulations

The need to address complex noise regulations was a key finding of the Inquiry into the Arts and Music Economy in NSW held in 2018 and Government action on this should continue. LGNSW reinforces the need for the State to address the regulatory overlap associated with the management of noise, by removing duplication contained in the *Environmental Planning and Assessment Act 1979*, *Protection of the Environment Operations Act 1997* and *Liquor Act 2007*. Government should also consider establishing a single point of contact for noise complaints.

Consideration should be given to managing entertainment noise through a hybrid model of precinct/entertainment areas (for example Fortitude Valley) and the application of the agent of change principle.

Proliferation of mixed use developments with one or multiple levels of commercial uses within a building that also accommodates residential uses presents issues for noise attenuation and odour nuisances for future activities that may take place in these premises. Planning controls should be developed which require noise attenuation and appropriate ventilation facilities to be built into the buildings. This will allow a range of uses to occupy these spaces with minimised amenity conflicts arising in the future.

4) Streamlining event approvals

Obtaining approval for events can be challenging for businesses, councils and event organisers. The cost of these approvals can also be prohibitive for events in smaller local government areas and regional/rural local government areas. These councils are sometimes finding it onerous to ensure compliance with state and federal regulations including crowd, traffic and emergency management requirements. For example, it has been reported recently that the Murwillumbah Banana Festival in the Tweed Valley has been forced to cancel the

annual street parade due to costs of adhering to the federal hostile vehicle guidelines for crowded places.

An advisory service for community, artistic and volunteer groups and councils would be helpful, as would access to grants to assist with the costs of the approvals.

Recommendation 6: LGNSW calls on the NSW Government to work across agencies to streamline processes impacting on the night time economy including planning, liquor, noise and event regulations. Consideration should be given to the following:

- a) exempt and complying provisions should enable small scale/low impact creative activities to be located in underutilised spaces or within existing uses in business zones.
- b) cumulative impact provisions to be included in the *Liquor Act 2007*.
- c) an integrated liquor licensing and planning process that removes duplication and focuses on a single application, single public consultation and single Plan of Management (POM).
- d) removing overlap in the management of entertainment noise contained in the *Environmental Planning and Assessment Act 1979*, *Protection of the Environment Operations Act 1997* and *Liquor Act 2007*.
- e) the provision of advice and grants to assist councils with the process of event approvals.

Recommendation 7: NSW Government should consult with councils on the potential to amend the *Local Government Act (1993)* relating to the creation of Alcohol Free Zones and Alcohol Prohibited Areas with a view to streamlining the two provisions to reduce community confusion.

(d) to inquire into measures required to enhance Sydney's night time economy

Note: As all Terms of Reference for this inquiry necessitate a discussion of measures to enhance Sydney's night time economy, some of our recommendations have been included in our response to other Terms of Reference. They have not been repeated in the interest of brevity. Further, this submission will be referring to measures state-wide and not limited to the Greater Sydney area.

Governance

To achieve the planning, design and regulation measures outlined in this submission, the NSW Government would benefit from the development and delivery of a NSW whole of government NTE Strategy by 2020, in collaboration and consultation with key stakeholders including local government.

The Government should also consider appointing a Minister for the Night Time Economy, as the Opposition has committed to, to drive this strategy. LGNSW notes that Create NSW, which is the agency responsible for driving the Government's night time economy program, has now moved into the Department of Premier and Cabinet. Councils are hopeful that this move may assist in coordinating changes across multiple Government agencies.

To this end, it is recommended that the Government establish an ongoing multi-agency NSW NTE Steering Group responsible for implementation of the NSW NTE Strategy. This would eventually replace the Government's time-limited NTE Taskforce. The NTE Steering Group should also include local government representation, ideally from LGNSW, to provide a state-wide voice for all councils.

The NSW NTE Strategy should:

1. Outline the vision, objectives and responsibilities for state agencies and local government
2. Set priorities for funding and investment
3. Outline key outcomes and measures
4. Be created in collaboration with local government, NSW NTECC and industry.

Recommendation 8: That the NSW Government appoint a Minister for the Night Time Economy with a dedicated NTE office within the Department of Premier and Cabinet, and establish a NTE steering group comprising of state agencies, and local government representation, to develop and implement a NSW-wide night time economy strategy.

Role of Government

Importantly, the NSW Government should work towards being an *enabler* of the night time economy. This involves a customer focused and outcomes focused mindset where ideas for the night time economy are supported and encouraged where possible. It's asking "how can this be done?" rather than "why can't this be done?".

An example of local government working as an enabler is that of ArtWalk from Port Macquarie-Hastings Council. ArtWalk is an initiative that came from that council's Cultural Plan. The project's purpose was to think about how the urban environment could be used to excite people. The outcome was turning light projections into walkthrough art that transformed traditional retail shops and day time uses into galleries at night. Local artists were also given the opportunity to exhibit in unconventional spaces and ArtWalk included live art making, live music and entertaining in spaces and businesses. While Port Macquarie-Hastings Council

established the event, it has now taken a step-back to allow businesses to continue programming and community volunteers to assist in the night. The next ArtWalk will be held Thursday 18 July 2019, for its fourth year.

Of course, enabling the night time economy is more than just events and activations. In May 2019, the City of Sydney updated its planning controls to provide the foundations for growth of Sydney's nightlife. These changes include:

- Provisions to encourage live music and performance
- new late-night trading areas established in emerging neighbourhoods;
- a new category of trading hours for unlicensed shops (like bookstores and clothing shops, and businesses like gyms, drycleaners and hairdressers), to allow them to trade up to 24 hours a day in the city centre and some other areas with approval.
- encouraging a new cultural precinct in Alexandria with an arts, culture and entertainment in a heritage warehouse (drawing parallels to the Toronto Distillery District referred to earlier in this submission).

The City of Sydney is supporting businesses by offering matched funding through the night-time diversification and live music and performance grants. Unfortunately, such funding is not an option for most councils in NSW. Councils instead look to the NSW Government to support the enabling efforts of the local government sector with targeted funding. LGNSW calls on the NSW Government to establish a NTE grants program to provide a much-needed injection of funding for councils to grow and manage urban areas at night.

Recommendation 9: That the NSW Government focuses on *enabling* participants in the night time economy including councils, businesses and creatives by being outcomes focused so as to achieve a diverse, safe and vibrant night time economy in NSW.

Recommendation 10: That the NSW Government establishes a night time economy grants program for councils to provide a much-needed injection of funding for councils to grow and manage urban areas at night.

Conclusion and Recommendations

There is a strong appetite from the local government sector to work with NSW Government on the night-time economy. Government should look to the positive examples throughout this submission of changes that the local government sector has already made, as well as other international examples.

Councils seek a shared vision with the NSW Government underpinned by a state-wide strategy and a coordinated approach led by the Department of Premier and Cabinet.

This submission has made the following 10 recommendations:

Recommendation 1: That the NSW Government consults with the NTECC, the NTECC member councils, and the wider council network (through LGNSW), to seek input and feedback on proposals for the night time economy which affect councils.

Recommendation 2: That the NSW Government commits increased funding for existing programs including the Community Safety Fund, and the NSW Crime Prevention Grants to support the efforts of councils to increase safety in their communities.

Recommendation 3: That the NSW Government takes proactive measures to enhance community safety at night, and ensure a variety of demographics can experience the night time economy, by providing public late-night transport including:

- a) first/last mile options, and
- b) 24 hour services on Friday and Saturday nights.

Recommendation 4: That the NSW Government improves community wellbeing by having a focus on cultivating creativity in NSW. Strategies should include seeking innovative ways to embed culture and creativity in existing commercial premises and innovative ways to transform larger districts into creative hubs.

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Recommendation 6: LGNSW calls on the NSW Government to work across agencies to streamline processes impacting on the night time economy including planning, liquor, noise and event regulations. Consideration should be given to the following:

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- b) cumulative impact provisions to be included in the *Liquor Act 2007*.
- c) an integrated liquor licensing and planning process that removes duplication and focuses on a single application, single public consultation and single Plan of Management (POM).
- d) removing overlap in the management of entertainment noise contained in the *Environmental Planning and Assessment Act 1979*, *Protection of the Environment Operations Act 1997* and *Liquor Act 2007*.
- e) the provision of advice and grants to assist councils with the process of event approvals.

Recommendation 7: NSW Government should consult with councils on the potential to amend the *Local Government Act (1993)* relating to the creation of Alcohol Free Zones and Alcohol Prohibited Areas with a view to streamlining the two provisions to reduce community confusion.

Recommendation 8: That the NSW Government appoint a Minister for the Night Time Economy with a dedicated NTE office within the Department of Premier and Cabinet, and establish a NTE steering group comprising of state agencies, and local government representation, to develop and implement a NSW-wide night time economy strategy.

Recommendation 9: That the NSW Government focuses on *enabling* participants in the night time economy including councils, businesses and creatives by being outcomes focused so as to achieve a diverse, safe and vibrant night time economy in NSW.

Recommendation 10: That the NSW Government establishes a night time economy grants program for councils to provide a much-needed injection of funding for councils to grow and manage urban areas at night.

For further information on this submission, please contact Elizabeth Robertson, Senior Policy Officer, [REDACTED].