

ITEM-62: ACTIVATION OF THE NEWCASTLE AFTER DARK STRATEGY**REPORT BY: STRATEGY AND ENGAGEMENT****CONTACT: DIRECTOR STRATEGY AND INNOVATION / MANAGER COMMUNITY, STRATEGY AND INNOVATION****PURPOSE**

To support the activation of the City of Newcastle's After Dark Strategy through a controlled trial of amended trading conditions for a small number of low impact and low risk venues in the Newcastle city centre.

RECOMMENDATION

That Council:

- 1 Supports a controlled trial of amended late-night trading hours of operation conditions on specific and targeted low-impact and low-risk venues in the Newcastle City Centre to promote the activation and recovery of the Newcastle night-time economy, as proposed in the approved Newcastle After Dark Strategy 2018-2022.
- 2 Endorses the temporary amendment to the Newcastle Local Environment Plan (LEP) to facilitate the trial, as requested by the Minister for Planning, noting that the Department of Planning, Industry and Environment (DPIE) is required to seek public feedback on any draft instrument for a period of 14 days.

KEY ISSUES

- 3 City of Newcastle (CN) has led and participated in many night-time economy planning and strategic activities over the last decade including the adoption of the Newcastle After Dark Strategy 2018-2022 (Strategy). The Strategy identifies the central role that a well-planned city night-time economy will play in the city centre revitalisation, as well as exerting a major influence over the visitor and cultural economies of the city and the region.
- 4 The Strategy was unanimously endorsed by the Council in November 2018 and supports venues designated as low risk to be exempt from current lock-out laws.
- 5 Specifically, the Strategy found:

There is widespread consensus across Newcastle that any growth in the Late-Night Economy should represent low impact venues. For example, the City of Newcastle will be seeking to encourage suitably well managed low impact venues (for example small bars) to trade until 2am to facilitate continued progress in venue diversity.

- 6 Initiative/ Action 2.2 of the Strategy recommended “Enable later closing time for low impact venues to 2am through a trial and comply method with appropriate controls”.
- 7 CN is a member of the Committee for Night-time Jobs and Investment, chaired by The Hon. Mark Latham MLC.

Members of the Committee:

Mark Latham, MLC, (Chair)

Tim Crakanthorp, State Member for Newcastle

Nuatali Nelmes, Lord Mayor City of Newcastle

Philip Crawford, Chairperson Independent Liquor & Gaming Authority

Dr Rochelle Hurst, Manager ILGA Secretariat

Paul Sariban, Director Liquor & Gaming Policy, Liquor & Gaming NSW

Marcel Savary, Director Liquor and Gaming Licensing & Reform Implementation, Liquor & Gaming NSW

Max Mitchell, Assistant Commissioner, NSW Police Force

Wayne Humphrey, Detective Superintendent, NSW Police Force

Meagan Kanaley, Director Codes and Design, Department Planning, Industry and Environment

Dr Nathaniel Bavinton, Innovation and Futures Manager, City of Newcastle

Michelle Bisson, Manager Planning and Regulatory, City of Newcastle

Prudence Farquhar Co-owner of Blue Kahunas

Colin Law, Treasurer Newcastle Tourism Industry Group

Karl Schlothauer, President Independent Bars Association

- 8 The Committee has agreed to implement and evaluate a controlled trial in Newcastle consistent with the endorsed Strategy comprising 27 small bars and restaurants, to enable later trading hours and the safe relaxation of alcohol restrictions. The purpose of this controlled trial is to support the diversity and economic viability of small businesses trading in the Newcastle night-time economy, and to support the city’s COVID-19 recovery.
- 9 Venues to be included in the controlled trial are a mix of small bars and restaurants, and which have not been the subject of any recent breaches of their liquor licences or incidents of anti-social behaviour. The NSW Police have vetted the list of venues and approved participation of each venue within the trial.
- 10 To facilitate this controlled trial, DPIE must amend the Newcastle LEP to enable extended trading hours for the participating small bars and restaurants, as exempt development, in accordance with the hours permitted by the ‘standard trading hours’ for such licences under the Liquor Act 2017 (Liquor Act). This LEP amendment will temporarily remove the discrepancy between the approved Development Application and the Liquor Act trading hours. This will have the effect of overriding existing hours of operation under approved conditions of consent for the venues, for the duration of the trial. This amendment will only apply to the small number of low risk venues who are participating in the trial

and will be for a limited time, and in a controlled manner. As such the LEP amendment is considered to be minor.

- 11 DPIE will this week publicly exhibit the proposed amendment to the Newcastle LEP 2012 for a period of 14 days. The community and interested parties will have the opportunity to comment on the proposed amendment. CN will also have an opportunity to review any submissions and provide comment to DPIE for consideration.
- 12 The proposed controlled trial will temporarily remove certain conditions attached to a participating venue's development consent that prevents them from operating during the standard trading hours allowed under the Liquor Act.

For example, this would include:

- a restaurant or small bar currently prevented from serving cocktails or whiskey neat past 10pm.
 - a small bar currently prevented from trading past midnight.
 - a restaurant currently prevented from trading until midnight (Monday-Saturday) or until 10pm on Sunday.
- 13 All other operating requirements and conditions of consent for the participating venues will stay in place and will be enforceable during the trial. For example, noise, ensuring food is available and limits on the number of drinks customers can buy at one time. Neighbourhood amenity, safety and potential impacts which may be associated with later trading hours during the trial will continue to be managed and enforced under the existing licensing requirements and conditions of consent.
 - 14 Participating venues will also need to continue to comply with their COVID-19 Safety Plan and relevant public health orders.
 - 15 The trial is focused on the Newcastle City Centre nightlife precincts and venues offering food and with a smaller patron capacity. These types of venues have traditionally not been the source of anti-social behavior in Newcastle's night-time economy. This trial will not be open to other licence types including licenced hotels, registered clubs or night clubs.
 - 16 The trial will take place in the city centre suburbs of Newcastle East, Newcastle (including Honeysuckle), Newcastle West and Cooks Hill, only.
 - 17 The trial will be evaluated by CN in partnership with Liquor and Gaming NSW, with input from the NSW Police. It will assess if relaxation of some trading restrictions can be achieved in low impact and low risk venues without a meaningful increase in social harm.
 - 18 Oversight of the trial is to include monthly meetings of the Committee, with CN and Liquor and Gaming NSW to provide monthly reports.
 - 19 In order to evaluate the trial, a two-tier performance framework has been developed. The framework will consider measures such as benefits to venues,

activity in the night-time economy, changes in alcohol related violence, and the broader impact on the city economy and community. Data will be collected from a wide variety of sources including participating venues, NSW Police, Liquor and Gaming NSW and community surveys. Data will be made publicly available at regular intervals throughout the trial. The performance framework is listed in Attachment A.

20 The intended details of the trial are:

Start date: October 2020
End date: April 2021
Licence Types: Small bar licence/On-premise restaurant licence.

21 Conditions:

Hours of Operation: To align with standard trading hours under the Act.
Normal public holiday restrictions apply as per Act.

22 Number and details of participating venues:

27 venues have registered to participate in the trial.

23 Once the trial period has ended, the provision within the LEP will no longer apply. Participating venues will revert to operating in accordance with their existing conditions of consent.

FINANCIAL IMPACT

24 The project will be administered within existing resources and operational budgets.

COMMUNITY STRATEGIC PLAN ALIGNMENT

25 **Vibrant, Safe and Active Public Places**

- 3.1 Public places that provide for diverse activity and strengthen our social connections.
- 3.2 Culture, heritage and place are valued, shared and celebrated.
- 3.3 Safe and activated places that are used by people day and night.
Inclusive Community.

Inclusive Community

- 4.1 A welcoming community that cares and looks after each other.

Smart and Innovative

- 6.2 A culture that supports and encourages innovation and creativity at all levels.
- 6.3 A thriving city that attracts people to live, work, invest and visit.

Open and Collaborative Leadership

- 7.1 Integrated, sustainable long-term planning for Newcastle and the Region.

IMPLEMENTATION PLAN/IMPLICATIONS

26 The trial will be implemented in partnership with organisations represented in the Committee for Night-Time Jobs and Investment. In order to facilitate the trial, two key mechanisms have been identified.

27 Temporary modifications to development consents

CN is responsible for enforcing conditions placed on development such as permitted types and times of land use, and additional conditions as imposed at the time of approval. In order to enable later openings for venues within the trial, a time-limited provision within the LEP will be temporarily amended to override related conditions in the development consent. This mechanism is the subject of this report. Other enforceable conditions of consent will not be affected.

28 Publication of a Statement of Regulatory Intent

The NSW Government will issue a Statement of Regulatory Intent that describes the compliance approach for certain conditions on liquor licences for the period of the trial. This is essentially an agreement from participating regulatory and compliance entities not to enforce certain liquor licence conditions during the trial for the registered participants only. The Statement of Regulatory Intent is not the responsibility of CN.

29 In collaboration with partnering organisations, CN is responsible for collecting data to inform the trial evaluation. The data will be collected from a variety of sources including trial venues, NSW Police, ILGA, surveys for community members and nightlife participants and other sources. The data will measure growth in participation and diversity, economic indicators and any negative impacts including violence and liquor licence breaches.

30 Once established, the trial will be monitored by the Committee.

RISK ASSESSMENT AND MITIGATION

31 Venues included in the trial have not been the subject of any recent breaches of their licences or incidents of anti-social behaviour.

32 The NSW Police have vetted the full list of eligible venues and have approved participation of each within the trial.

RELATED PREVIOUS DECISIONS

33 A number of previous decisions have been made by Council that have supported development of the Strategy and influenced its strategic focus. These include the following resolutions:

- i. At the Ordinary Council meeting of 27 November 2018 Council adopted the After Dark Strategy 2018-2022.

- ii. At the Ordinary Council Meeting held on 25 September 2018 Council resolved to receive a costed proposal on a position of Night Tsar for CN.
 - iii. At the Ordinary Council Meeting held on 27 February 2018 Council endorsed the recommendation to support the local live music industry including the creation of a Live Music Strategy in supplement to Newcastle After Dark.
- 34 At the Extraordinary Council Meeting held on 23 January 2018 Council unanimously endorsed CN's submission to the review of liquor licence conditions in Newcastle, which was being undertaken by the NSW Independent Liquor and Gaming Authority. This submission was headlined by a recommendation that low risk venues be exempt from lock out laws.

CONSULTATION

- 35 The trial is in alignment with strategies and initiatives outlined in the Newcastle After Dark Strategy, which was developed with comprehensive community and stakeholder engagement and consultation. It identifies a strategic approach to growing a safe, diverse and vibrant night economy in Newcastle. The Strategy highlights the growth of venue diversity as paramount to increasing the appeal of the Newcastle night-time economy to broader demographics who are not catered for by current night-time offerings.
- 36 Identification of the appropriate mechanisms for enabling the trial has happened in close consultation with the Committee for Night-Time Jobs and Investment.

BACKGROUND

- 37 The Newcastle night-time economy is significant at a national and regional scale. It is the sixth largest night-time economy in the country, accounting for 5.4% of the total Newcastle economy (\$1.358 billion in 2015).
- 38 COVID-19 has economically compromised the Hospitality and Creative Industries. There have been significant job losses, income reduction and significantly less revenue as a result of Public Health Orders from March to June, social distancing restrictions affecting venue capacity and general reluctance of patrons to attend public places.
- 39 Application to participate in the trial was open to 127 designated 'low impact' venues classified as "small bar" and "on premise" licensees within Newcastle East, Newcastle (including Honeysuckle), Newcastle West and Cooks Hill. Of the 127 eligible venues 27 venues have opted in to participate in the trial including:

Venue Name
5 Sawyers Darby Street
Babylon Newcastle
Bao Brothers Eatery

Basement on Market
Big Poppys
Blue Kahunas
Coal & Cedar
Civic Theatre
Grain Store
Harbour Bar & Grill
Honeysuckle Social
Itch Social (Koutetsu)
Kitami Japanese Restaurant
Milky Lane Newcastle
MEET Restaurant
Moneypenny Newcastle
Scratchleys on the Wharf Restaurant
SuBo
The Beehive Honeysuckle
The Dockyard
The Edwards Parry Street
The Falcon Restaurant
The Newcastle Signal Box
The Landing
Three Bears Kitchen
Valerie's Pizza Parlour
Zinc on Darby (Beach Burrito)

OPTIONS

Option 1

40 The recommendation as at Paragraph 1 and 2. This is the recommended option.

Option 2

41 Council does not support the activation of the City of Newcastle's After Dark Strategy through a trial of amended conditions for a small number of low-impact and low-risk venues. This is not the recommended option.

ATTACHMENTS

Item 62 Attachment A – Performance and Evaluation Measures

Attachment A

Layer	#	Performance / Evaluation Measure	Indicator	Proposed Measure	Proposed Data Type	Source
Trial Assessment	1	Sustainable Small Businesses	Increased Turnover	Takings / Point of sale data	Participating Venues Data	Participating Venues
	2	Safe Venues	On premises assaults Linked Public violence Licensing infractions	Crime data Alcohol Linkage data L&G	Trial Partner Data Trial Partner Data Trial Partner Data	NSW Police LAC NSW Police LAC L&G / ILGA
	3	Increased Participation	More participants More diverse participants	Attendance at venues / time period Patron Demographics (merchant terminal repo) Demographics of participants Increased frequency of participation	Participating Venues Data Participating Venues Data CN Community Survey and CN in-venue survey CN Community Survey and CN in-venue survey	Participating venues - Covid check in patron count Participating venues In-Venue / After Dark Survey After Dark Survey
Impact Evaluation	4	Economic Growth	More employment More businesses trading in NTE More turn over	More employees per business at night Number of businesses open per time period Point of Sale data	Existing Available Data Existing Available Data City Partner Data (banks) / Specialist Procured Data	Payroll data / employee count per week ABR / ATDW Spendmapp/ local banks
	5	Moderate sound impacts	Proportional increase in noise complaints	Number of legitimate complaints / time period	Trial Partner Data and CN Records	ILGA / Police / CN
	6	Perceptions and Attitudes	Improved perceptions of NTE Improved sentiment on NTE	Social media sentiment safety perception x participant frequency Social media sentiment Positive perception x participant frequency	Specialist Procured Data CN Community Survey Specialist Procured Data CN Community Survey and CN in-venue survey	Procured service In-Venue / After Dark Survey Procured service In-Venue / After Dark Survey
	7	Visitor Economy	Increased tourism activity Changed accommodation patterns	Hotel bed stays / week Demographics of overnights Travel to/from of overnights	City Partner Data (accom providers) City Partner Data (accom providers) City Partner Data (accom providers)	Accommodation hotels Accommodation hotels Accommodation hotels
	8	City Engagement	Increased public transport usage More in/between precinct walking	Trips to from Pedestrian activity	City Partner Data (Newcastle Transport) Cn Data (sensors and apps)	Keolis Downer Hunter / TfNSW Opal CN - sensors and apps / Procured service