



**Bayside Council**

Serving Our Community

# **Part 7G**

**Licensed and Late-night Trading Premises**

**Botany Bay Development Control Plan 2013**





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## 7G.1 Introduction

Licensed and late-night trading premises contribute significantly to the local economy and broaden the social and cultural profile of the local government area. It furthers the vibrancy and diversity of the urban environment beyond the normal business hours. Nevertheless, the operation of these premises and associated activities may also have adverse impacts on the adjoining uses and nearby communities.

The intent of this Part of the DCP is to ensure these premises are appropriately located with suitable trading hours whilst maintaining the amenity of the local communities and residents. The controls contained in this section of the DCP provide guidance to the community and proponents in regard to the suitable location and operation hours of these premises and present design options to address common safety issues.

### 7G. 1.1 Land to which this Part Applies

This Part of the DCP applies to development applications which propose:

- (i) Hours of operation between 10pm and 7am;
- (ii) Refurbishments, additions or extensions that will result in an intensification of an existing use which has a council consent for hours of operation between 10pm and 7am;
- (iii) An extension or renewal of trading hours of operation as prescribed in this DCP; or
- (iv) Approval for outdoor trading beyond 8pm.

This Part needs to be read in conjunction with:

- Part 1 - Introduction
- Part 2 - Notification and Advertising
- Part 3 - General Provisions
- Part 4 - Residential Zones
- Part 5 - Business Centres
- Part 6 - Employment Zones
- Part 7 - Other Development Types and Land Uses
- Part 8 - Character Precincts
- Part 9 - Key Sites
- Part 10 – Technical Guidelines*

**Note:** Licensed and late-night trading premises must comply with all other applicable Parts of the DCP, if there is a discrepancy between **Part 7G - Licensed and Late-night Trading Premises** and other Parts, the Objectives and Controls of **Part 7G** will always prevail.





## 7G.1.2 Licensed and Late-night Trading Premises

Licensed and Late-night Trading Premises are divided into two categories: “Low Impact” and “High Impact”. The definition of “Low Impact” and “High Impact” premises are as follow:

### Category 1 - Low Impact

Category 1 premises includes any premises, hotels, pubs or clubs, within the meaning of the *Liquor Act 2007*, which:

- (i) Has capacity for 70 patrons or less and possesses a designated as a general bar licence;
- (ii) Has an on-licence that does not contain any of the characteristics showing in a High Intensity area development; or
- (iii) Premises where the purpose of the business is for the sale or supply of liquor to be consumed within the premises, (restaurant), but does not contain any of the characteristics showing in a High Intensity area development.

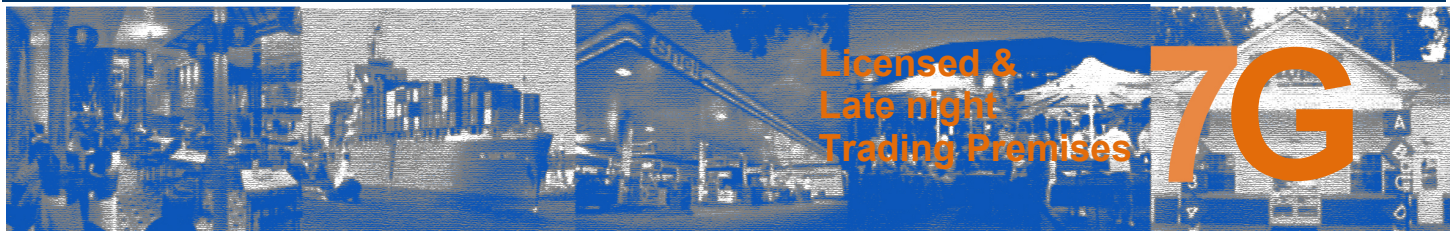
### Category 2 - High Impact

Category 2 premises includes any premises, hotels, pubs or clubs within the meaning of the *Liquor Act 2007*:

- (i) That is not a designated as a general bar licence;
- (ii) Has a capacity of 70 or more patrons including both inside and outside the premises; or
- (iii) A karaoke venue where liquor is supplied or sold for on site consumption.

## 7G. 1.3 General Objectives

- O1** To minimise adverse impacts to nearby residential developments or other sensitive uses;
- O2** To ensure licensed and late-night trading premises are compatible with the adjoining land uses;
- O3** To ensure operators of these premises adopt good management practices;
- O4** To promote licensed & late-night trading premises that contribute to the vibrancy and diversity of the urban environment;
- O5** To encourage a diversity of night-time activities;
- O6** To avoid over concentration of licensed & late-night trading premises within an area;
- O7** To provide opportunities to licensed & late-night trading premises to extend trading hours where ongoing good management is demonstrated during the trial periods; and
- O8** To ensure that licensed & late-night trading premises do not operate exclusively during night hours.



## 7D.2 Neighbourhood Amenity

### Objectives

- O1** To ensure that licensed and late-night trading premises are compatible with the surrounding land uses;
- O2** To ensure impacts are minimised on the surrounding areas;
- O3** To minimise the noise and vibration impacts; and
- O4** To ensure the hours of operation do not have a detrimental impact of the surrounding areas.
- O5** To minimise adverse impacts to the adjoining uses and public spaces;
- O6** To ensure the activities within the premises do not extend to the streets or public domain;
- O7** To maximise the opportunity of passive surveillance;
- O8** To minimise congestion and loitering outside the premises;
- O9** To enable the efficient movement of patrons between the venues and the street; and
- O10** To encourage positive patron behaviour.

### Controls

#### General

- C1** The following information is required to be submitted for a licensed and late-night trading premises Development Application:
  - (i) The location and context of the proposed or existing development;
  - (ii) The surrounding uses;
  - (iii) The specific nature of the premises (i.e. pubs, nightclub, café and restaurant);
  - (iv) The existing (if currently in operation) and proposed hours of operation;
  - (v) The hours of operation of the surrounding businesses;
  - (vi) The size and capacity of the premises, (if applicable) the proposed size and capacity of the premises;
  - (vii) The potential cumulative impacts of the proposed uses;
  - (viii) The likely operation of the proposal during day time hours;
  - (ix) The likelihood of a substantially altered locality character as a result of the development proposed;



- (x) Safety, security, and crime prevention measures for within the premises and the surrounding public domain;
- (xi) The proximity and access to a public transport system during night times;
- (xii) A recommendation made by NSW Police in regard to the proposed development; and
- (xiii) A draft Plan of Management.

**C2** Premises shall not result in a cluster of licensed and late-night trading premises (refer to **Figure 1**).

#### **Figure 1 - Cluster**

**Figure to be inserted at a later date.**

**C3** One main controlled entry and exit point for the premises is to be provided.

**C4** The main entrance is to function as an emergency exit.

**C5** Clear venue identification (i.e. street number and venue name) is to be provided at the front premises.

**Note:** Council approval may be required for signage and advertising structures (refer to **Part 3D - Signage**).

**C6** Queuing and waiting areas within the public footpath area are to be clearly identified and must not interfere with the pedestrian movement along a public footpath (e.g. the use of removable bollards or use of paving materials and colour).

**Note:** The queuing and waiting areas of the premises must be clearly identified on the development application and plans and must be approved by Council.

**C7** The queuing/waiting area must not protrude in front of neighbouring properties.

**C8** A physical end point for the queuing area shall be provided.

**C9** Signs shall be placed at entry and exit point of the premises to communicate standards of behaviour to patrons (e.g. minimise noise whilst leaving the premises).

**C10** Development Applications shall demonstrate how the design and operation of the licensed and late-night trading premises complies with "*Alcohol & Licensed Premises: Best Practice in Policing*".



## Noise

- C11** Noise impacts and effects must fall within appropriate levels and comply with the *Protection of the Environment Operations Act 1997* and the POEO (Noise Control) Regulations 2008.
- C12** Noise absorbing materials shall be installed (such as using carpet instead of hard flooring).
- C13** Loud speaker and noise generating devices are not permitted to be located near windows and doors.
- C14** Licensed & late-night trading premises shall be located in close proximity to public transport and in high pedestrian and traffic flow areas.

## Safety and Security

- C15** Development Applications shall demonstrate compliance with the Building Code of Australia and relevant fire safety requirements.
- C16** Clear glazed windows shall be installed along the frontages and entry/exit points of the premises.
- C17** Blank walls along the street are not permitted.
- C18** Clear sight lines are to be provided to these premises.
- C19** Where possible, queuing area shall be provided within the premises.
- C20** Entry and exit points shall be well lit and surveillance cameras are to be installed.
- C21** Security or crowd controllers are required at entry and exit points of clubs and pubs to monitor the behaviour of patrons and number of patrons entering and exiting the premises;  
  
**Note:** As a general guide, one approved security or crowd controller per 100 patrons.
- C22** Pedestrian routes to the car park shall be appropriately illuminated and passive surveillance provided.
- C23** External furniture and equipment (i.e. bollards) must be removed at the end of the approved trading hours and stored inside the premises.





## 7G.3 Hours of Operation

Hours of operation are an important consideration and depend on not only the successful management of the use, but also what the impacts extended hours of operation have on the area.

The hours of operation of a licensed and late-night trading premises are divided into two categories: “base” and “extended” hours of operation.

### **Base Hours of Operation**

Base hours of operation are the standard hours of operation that a licensed and late-night trading premise is permitted to operate if a development application is approved.

### **Extended Hours of Operation**

Council may grant the extension of the hours of operation on a trial basis.

Extended hours of operation may be permitted by council if:

- (i) The application demonstrates the premises has been (or will be) well managed; and
- (ii) If the application is compliant with a Plan of Management.

Prior to the expiry of the trial period, a new development application is to be submitted to Council to either renew the existing trial hours or to seek an extension of trading hours. Otherwise, the trading hours of the premises will revert back to the base hours of operation.

### **Objectives**

- O1** To ensure the hours of operation do not have a detrimental impact of the surrounding areas; and
- O2** To ensure the hours of operation provide a safe and secure environment.





## Controls

- C1** The hours of operation for licensed and late-night trading premises are limited to the times indicated in **Table 1**.
- C2** Licensed & late-night trading premises which propose to operate outside the allocated time in Table 1 or which are located in close proximity to residential premises must be accompanied by documentation to demonstrate the proposed hours of operation will not impact the surrounding areas:
- (i) Amenity (noise and light);
  - (ii) Safety and security; or
  - (iii) Traffic

**Table 1 - Hours of operation for Licensed and Late-night Trading Premises**

	Category 1 - Low Impact		Category 2 - High Impact	
	Base Hours	Extended Hours	Base Hours	Extended Hours
<b>Indoor Hours of Operation</b>	8am - 10pm	7am - Midnight	10am - 10pm	9am - 11pm
<b>Outdoor Hours of Operation</b>	9am - 9pm	8am - 10pm	10am - 8pm	10am - 9pm

**Note:** High Impact Premises will have restricted operation hours to reduce the impacts on the amenity of the area.



## 7G.4 Trial Periods

All development applications for extended hours of operation (beyond the hours identified in **Table 1**) will be subjected to a trial period. The duration of the trial period will be restricted to enable Council to appropriately assess the ongoing management performance of the premises and consider the impacts to the adjoining properties and locality.

In addition, it permits Council to review the conditions of the development consent and respond to issues which may arise during the operation of the premises or changes in the late-night character of the local government area.

If Council considers that a trial period is unsatisfactory (e.g. complaints made by adjoining properties, unable to comply with the Plan of Management), the trading hours of the premises will revert back to the base hours or approved hours.

Development applications for the renewal or extension of the trial hours of operation must be lodged with Council 30 days before the expiry of the trial period. It is at Council's discretion to enable licensed & late-night trading premises to continue to trade under the existing approved trial hours prior to the determination of the new development application.

If a development application is not lodged to Council within 30 days from the expiry of the trial period, the premises is to be reverted back to the approved base trading hours.

### Objectives

- O1** To ensure appropriate management of licensed and late-night premises; and
- O2** To ensure amenity impacts to the adjoining properties and locality are acceptable.

### Controls

- C1** Council will only grant consent to the renewal or extension of the hours of operation following the completion of a satisfactory trial period and if the licensed and late-night trading premises demonstrates the following:
  - (i) Good management performance;
  - (ii) Compliance with the approved Plan of Management; and
  - (iii) A satisfactory response to unforeseeable matters that arise during the operation of the premises.
- C2** Trial periods may be permitted up to the following durations:
  - (i) First trial - 1 year.
  - (ii) Second trial - 2 years.
  - (iii) Third and subsequent trial - 5 years.



- C3** After the successful completion of the third trial period, a development application must be lodged every 5 years to renew the hours of operation.
- C4** If the Council determines that a trial period has been unsatisfactory then trading hours will revert to the base hours of operation, or whatever hours have been approved as the maximum trading hours.



## 7G.5 Plans of Management

The intent of the Plans of Management (POM) is to ensure the proponents/operators of the premises have considered and addressed any potential impact that may occur during the operation of the licensed & late-night trading premises. In addition, it enables Council to consider the potential impacts of the proposal.

Plans of Management are to provide information in relation to the operational and contextual aspect of the premises (e.g. locality description, noise emission, number of patrons, hours of operation, security numbers, etc.) and present preventative measures (e.g. crowd control procedures, noise and waste management, etc.) to be undertaken by the operators to minimise adverse impacts on the adjoining land uses and ensure the premises will be appropriately managed.

It is the responsibility of the licensees or operators to ensure the premises is appropriately managed and display sensitivity to the impact of the premises on the liveability of neighbourhoods.

### Objectives

- O1** To ensure the licensed and late-night trading premises are compatible with the surrounding land uses;
- O2** To ensure impacts on the surrounding area are minimised;
- O3** To minimise the noise and vibration impacts; and
- O4** To ensure the hours of operation do not have a detrimental impact on the surrounding areas.

### Controls

- C1** A Plan of Management (POM) is required to be submitted with a development application. A POM is a written report which describes how the ongoing operation of licensed & late-night trading premise will be managed to reduce its impact upon the amenity of surrounding properties.

The POM allows Council to exercise control over the ongoing operation of a premises by requiring, as a condition of consent, that the premises operate in accordance with the POM. A condition of consent may require that a POM be regularly revised and submitted to Council.

The POM must provide all details relevant to the operation of the premises. As a minimum the following must be included:

- (i) Title;
- (ii) Objectives;
- (iii) Operational details;
- (iv) Hours of operation;





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- (v) Staffing and organisation overview;
- (vi) Any Liquor Licences and/or entertainment approvals;
- (vii) Identification of the likely common pedestrian routes;
- (viii) Deliveries and loading/unloading;
- (ix) Managing customers or patrons;
- (x) Security details;
- (xi) Noise and Vibration Impact Assessment;
- (xii) Shadow Analysis;
- (xiii) A schedule of proposed entertainment times (ie live bands) for each day of the week;
- (xiv) Complaint recording and handling process; and
- (xv) The review process to continuously improve the POM.

**C2** The POM is required to be reviewed at the conclusion of every trial period. Where necessary, the POM may be required to be revised to maintain or improve the level of amenity and safety to nearby landuses and communities and to address unforeseeable issues, impacts or events raised during the operation of the premises.

**C3** The review of the POM will consider (but not be limited to):

- (i) Complaints received by Council and the Casino, Liquor and Gaming Control Authority;
- (ii) Inspections conducted by Council officers during the trial period; and
- (iii) Consideration of Police complaints.