



Explanation of Intended Effect

Proposed State Environmental Planning Policy to amend the Newcastle Local Environmental Plan 2012 to temporarily extend trading hours in small bars and restaurants

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Executive Summary

The Minister for Planning and Public Spaces is seeking feedback on a proposal to amend the *Newcastle Local Environmental Plan 2012* (Newcastle LEP) to allow certain small bars and restaurants to trade outside the hours of operation for the premises specified in the conditions of the venue's development consent (trading hours). The proposal is to allow for this extended trading to be treated as exempt development if it is done in accordance with the hours permitted by the 'standard trading hours for such licences under the *Liquor Act 2007* (Liquor Act).

The proposed change has been designed to help facilitate the rejuvenation of Newcastle's night-time economy. The Department of Planning, Industry and Environment (Department) has worked closely with the City of Newcastle Council (Council) to develop these changes which will apply for a trial period of six months. The trial will take place from 1 October 2020 to 31 March 2021. Once the trial has ended, the proposed exempt development provisions will no longer apply.

The NSW planning system has an important role to play in the State's economic recovery. This trial is part of broader plans to keep the economy moving, support our communities and keep people in jobs, both now and in the months ahead. Where appropriate, the Government is responding by adapting the planning system to ensure continued productivity, investment and community well-being.

The extended trading hours may assist participating businesses to recoup lost income from the temporary closures and reduced customer capacity due to COVID-19.

Proposed amendment to the Newcastle LEP

The Minister for Planning and Public Space will make a State Environmental Planning Policy to amend the Newcastle LEP to allow certain specified small bars and restaurants with an on-premises licence under the Liquor Act who have elected to participate in the trial to trade outside of their existing trading hours as exempt development. All other conditions of consent for these venues will remain unchanged and will be enforceable during the trial.

Eligible venues

Liquor and Gaming NSW and the council have previously identified and invited selected small bars and restaurants in Newcastle (including Honeysuckle), Newcastle East, Newcastle West and Cooks Hill to participate in the trial. The venues identified for the trial are:

#	Venue Name	#	Venue Name
1	Blue Kahunas	14	Harbour Bar & Grill
2	Coal and Cedar	15	5 Sawyers
3	Koutetsu (licenced as Itch Social)	16	The Falcon Restaurant
4	Uptowns Bar (licenced as Big Poppys)	17	The Edwards
5	Kitami King Street (licenced as Kitami Japanese Restaurant)	18	The Beehive Honeysuckle
6	SuBo	19	Money Penny
7	Scratchley's on the Wharf	20	Babylon
8	MEET Restaurant	21	Valerie's Pizza Parlour
9	Beach Burrito (licenced as Zinc on Darby)	22	Three Bears

10	Civic Theatre	23	Milky Lane Newcastle
11	Honeysuckle Social	24	Signal Box
12	The Dockyard	25	Basement on Market Street
13	The Landing Bar and Kitchen	26	Grain Store

The trial is only open to venues with an existing small bars licence or on-premises restaurant licence that have been approved by the council, NSW Police and Liquor and Gaming NSW. The Department has not been involved in this process. The trial excludes larger venues (such as clubs and hotels) and certain ‘high risk’ venues.

Trading hours

The proposed extension in trading hours reflects the standard trading hour period for small bar licences and restaurants with an on-premises licence specified under the Liquor Act. The exempt development provision will bridge the gap between that time and what is specified as the trading (or operating hours) for the venue as a condition of their development consent. This means that eligible small bars will be able to trade until 2 am on any night of the week, while a participating restaurants will be able to trade until midnight (Monday to Saturday) or until 10pm on Sunday.

It is proposed that neighbourhood amenity, safety and potential environmental impacts caused by late night trading hours (such as noise) will continue to be managed and enforced under the existing licensing requirements and conditions of consent.

In addition, eligible venues will be required to adhere to the strict requirements of the COVID-19 Public Health Orders for hospitality venues throughout the trial.

What is a small bar?

Small bars licences allow venues to hold a maximum of 120 patrons, without gaming machines or serving takeaway alcohol. Small bar licence standard trading hours are from 12pm (midday) to 2am, Monday to Sunday, except for Good Friday and Christmas Day. These venues are considered to involve a lower risk of violence, nuisance and alcohol harm.

What is restaurant?

A restaurant is a holder of an on-premises licence that meets the ‘Primary Purpose Test’. They may also hold a ‘Primary Service Authorisation’ which allows the supply of alcohol without a meal.

The primary purpose of restaurants, cafés and other similar venues when operating under this licence type, even if holding a ‘Primary Service Authorisation’, must at all times be the *business of preparing and serving meals to the public*, including *genuine meals consumed by a person at a dining table*.

How to get involved

This document is being exhibited in line with the Department’s Community Participation Plan. To make a submission on the amendments proposed in this document please go to www.planningportal.nsw.gov.au/draftplans/on-exhibition and complete the submission form.

For more details on the trial, please contact the City of Newcastle Council at mail@ncc.nsw.gov.au.