

SMALL BARS PLANNING PROPOSAL

Division	Environment and Community Management
Author	Team Leader Strategic Planning Strategic Planner
Meeting date	6 October 2015 Policy Meeting
Strategic Plan Key Service Area	Community well-being Accessibility Place where we live and work Business in the community Sustainable services and assets

SUMMARY AND ORGANISATIONAL IMPLICATIONS

Purpose of Report	The purpose of this report is to outline proposed amendments to <i>Leichhardt Local Environmental Plan 2013</i> and <i>Development Control Plan 2013</i> in regards to small bars. It will also initiate the planning proposal process for making the LEP amendment.
Background	A report to the 25 March 2014 Council meeting advised that changes to the <i>Liquor Act 2007</i> and Standard Instrument (LEP) Order 2006 had made a new type of land use "small bars". This report can be found as Attachment 1. Council resolved (C82/14) to: (a) Prepare a 'draft' Planning Proposal to facilitate small bars in appropriate locations across the Local Government Area. This report responds to that resolution.
Current Status	NIL
Relationship to existing policy	<i>Leichhardt Local Environmental Plan 2013</i> ; <i>Leichhardt Development Control Plan 2013</i> ; <i>Leichhardt 2025+ Community Strategic Plan</i> ; <i>Employment and Economic Development Plan - 10 Year Strategic Plan</i> ; <i>Employment and Economic Development Plan - 4 Year Service Delivery Plan</i> ; <i>Delivery Program 2014-2018 and Operation Plan 2015-2016</i> ; <i>Community and Cultural Plan - 4 Year Service Delivery Plan</i> <i>Council's Good Neighbour Policy</i>
Financial and Resources Implications	NIL
Recommendation	That Council: 1. Endorse the attached planning proposal and forward to the Minister for Planning for Gateway Determination in accordance with section 56 of the <i>Environmental Planning and Assessment Act 1979</i>;

	2. Endorse the attached draft amendments to the Development Control Plan 2013, and place on public exhibition at the same time as the planning proposal. 3. Request the Department of Planning and Environment to delegate the plan making functions, in relation to the subject Planning Proposal, to Council; 4. Place the Planning Proposal (Attachment 6) and supporting documentation on public exhibition for a minimum of 28 days and public authorities be consulted on the Planning Proposal in accordance with the Gateway Determination, when issued; 5. Consider a report at the completion of the public exhibition period detailing submissions received and the outcome of consultation with public authorities.
Notifications	NIL
Attachments	Attachment 1 - Previous Council Report 25 March 2014 Attachment 2 - Late Night Trading Policies Analysis Attachment 3 - Neighbourhood Centres, Local Centres, Late Night Trading Shopping Precincts B2 and B4 Attachment 4 - DCP 2013 C4.11 Licensed Premises & Small Bars Attachment 5 - Small bars - Review of Parking Requirements Attachment 6 - Small bars Planning Proposal

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Background

A report to the 25 March 2014 Council meeting advised that changes to the *Liquor Act 2007* and Standard Instrument (LEP) Order 2006 had made a new type of land use "small bars". This report can be found as Attachment 1.

Council resolved (**C82/14**) to:

- (a) Prepare a 'draft' Planning Proposal to facilitate small bars in appropriate locations across the Local Government Area.

This report responds to that resolution.

Report

1. Small Bar Licences

The Independent Liquor and Gaming Authority determine liquor and gaming licence applications, alterations to licences and disciplinary matters. Its objectives are to:

- Regulate and control the sale, supply and consumption of liquor;
- Facilitate the balanced development, in the public interest, of the liquor industry;
- Contribute to the responsible development of related industries such as live music, entertainment, tourism and hospitality.

The introduction of the *Liquor Act 2007* consolidated the number of liquor licence types to six (6). The following table summarises three (3) licences that are relevant to the consideration of small bars.

Table 1: Descriptions of liquor licences under the *Liquor Act 2007*

Type of Liquor Licence	Description
General Bar Licence	• Is a type of Hotel licence • Bars and hotels which do not keep or operate gaming machines and do not sell takeaway liquor. • There is no limit on the number of patrons.
On-premise Licence	• An "on-premise" licence refers to a licence for the sale of liquor for consumption at the premises where liquor is purchased. • Typically, this applies to cafes and restaurants.
Small Bar Licence	• A small bar licence allows liquor to be sold in a bar that is restricted to a maximum of 60 patrons. • A community impact statement is not required where development consent from the local council is required. • Applications can be made to the Independent Liquor and Gaming Authority to extend small bar liquor trading from 10am up until 5am. • Minors are not permitted in a small bar during authorised liquor trading hours.

A key aim of the small bar licence was to provide greater certainty around how these venues operate. Venues operating under a small bar licence are expected to appeal to patrons who are interested in smaller, more intimate licensed venues, thereby lowering risks associated with larger venues such as patron behaviour and the impacts of alcohol consumption on the community.

The NSW Government has provided a number of incentives to encourage the take up of the small bar licence by reducing cost and red tape. The application fee for a small bar licence is \$250, half of that for an on-premise licence. There have been two small bar liquor licence applications in the Leichhardt local government area since LEP 2013 was published on 3 February 2014. During this time, there were six development applications for licensed premises none of which related to small bars. They included alternations and additions to existing licensed hotels (pubs) and restaurants and cafes.

2. Characteristics of Small Bars

A report by the City of Fremantle, WA, described small bars as having many positive impacts compared to large traditional drinking establishments such as hotels, pubs and nightclubs. These include:

- Catering for demographic or population groups currently not catered or under-catered for in particular localities;
- Fulfilling unmet demand for small or unique venues;
- Promoting balanced enjoyment of alcohol through the provision of food, seated drinking, higher prices to moderate binge drinking, and competition for high-risk venues such as pubs;
- Supporting the arts as potential venues for music, enhancing a cultural identity and attachment to place;
- Showcasing local and/or specialty products such as boutique beers or food makers (for example cheese);
- Activation of disused spaces (such as laneways);
- Activation of street fronts with improved passive surveillance and lighting of streets to increase perceptions of safety;
- Assisting the implementation of local and State government plans for revitalisation of urban and suburban areas;
- Increasing diversity of people visiting entertainment districts to help improve standards of behaviour;
- Providing employment opportunities for local people;
- Boosting tourism and spending in local economies; and
- Establishing or reinforcing desirable cultural characteristics in an area, such as artistic communities and heritage precincts.

3. Characteristics of Patrons

A concentration of liquor outlets within an area is often cited as a contributory factor to higher levels of alcohol related harm in such localities. Some council areas have historically considered existing concentrations of licensed premises as grounds for objection to applications for new liquor licences. However, the patrons of small bars are commonly multi-destination consumers, for example possibly visiting a small bar, cinema and restaurant.

Small bars are therefore unlikely to experience binge drinking and their smaller capacities discourage alcohol fuelled poor behaviour. A reasonable agglomeration of small bars in appropriate locations, such as late night trading areas, town centres and shopping streets can complement each other to create a precinct destination, rather than a single venue such as a large pub or club. This creates a sense of place and encourages local businesses and a late-night economy.

4. Other forms of Small Bars

Despite the *Liquor Act 2007*, *Standard Instrument (Local Environmental Plans) Order 2006* and small bar liquor licence defining small bars as having a maximum capacity of 60 persons, the City of Sydney and Marrickville permit 'small bars' to have capacities up to 120 persons. Such premises have the characteristics and functions of small bars and are assessed against the development controls as small bars. However they possess general bar licences and have a legal description of 'pub', which as with "small bars" is also a subcategory of 'food and drink premises' under the *Standard Instrument (Local Environmental Plans) Order 2006*.

5. Strategic Context

There are a number of objectives and actions within Council's strategic plans which relate to small bars due to their relevance to the night time economy and live music initiatives. These objectives are outlined below.

Table 2: Leichhardt Council's Strategic Plan Context

Strategic Plan	Objectives/Actions
<i>Leichhardt 2025+ Community Strategic Plan</i>	- Supporting community wellbeing by enlivening the arts and cultural life; - Creating business in the community by supporting places that attract and connect people.
<i>Employment and Economic Development Plan - 10 Year Strategic Plan</i>	- Strategy 2.3 to investigate expansion of the night time economy; - Strategy 3.1 to support small business and start-ups; - Strategy 4.5 to encourage the growth of tourism.
<i>Employment and Economic Development Plan - 4 Year Service Delivery Plan</i>	- Strategy 1.1: Drive the renewal of key centres and corridors through place-based planning; to investigate actions to enhance the night time economies of Rozelle, Norton Street, Balmain and Annandale. - Strategy 2.3: Investigate expansion of the night time economy; investigate the creation and potential impacts of pop-up businesses and small bars in appropriate locations within the LGA's centres.
<i>Delivery Program 2014-2018 and Operation Plan 2015-2016</i>	- Investigate the enhancement of the night-time economy in Annandale; - Investigate the extension (and potential implications) of the three existing late night trading areas recognised in DCP 2000, including live music venues along Parramatta Road, between Taverners Hill and Sydney University. (C77/13) Parramatta Road Live Music and Cultural Precinct - investigate live music DCP for Parramatta Road, planning incentives and protections for live music and performance venues, extended trading hours for licenced premises, expedited approval process for applications and possibly rates concessions for new music venues. - Investigate the creation and potential impacts of pop-up businesses and small bars in appropriate locations within the LGA's centres.
<i>Community and Cultural Plan - 4 Year Service Delivery Plan</i>	2.2.2 Develop positive interaction between public and private places and spaces. 4.2.1 Develop relationships between the cultural sector, local creative industries and businesses in creative clusters and hubs.
<i>Council's Good Neighbour Policy</i>	In February 2013, Council resolved to adopt the <i>Good Neighbour Policy</i> which was developed to provide a mechanism to settle amenity disputes between late night trading venue operators and surrounding land owners. The objectives of the policy are provided below: To end the prosecution of live music venues, Council must convene monthly meetings between licensees and neighbouring residents to proactively resolve noise issues and explain the rights of existing

Strategic Plan	Objectives/Actions
	venues; • To provide greater protection to established late night trading venues against newly arrived neighbours; • Council's Cultural Officers must be consulted about noise complaints prior to undertaking any compliance action; • Council will be required to liaise with Music Industry peak bodies and the Independent Liquor & Gaming Authority before initiating legal action.
<i>Relevant Council Resolutions</i>	In March 2013, Council resolved to endorse the development of the Parramatta Road Live Music Precinct, review of a live music Development Control Plan and other policies and programs to support the development of Parramatta Road between Sydney University and Taverners Hill, including Norton Street. In April 2013, Marrickville Council also resolved to support Leichhardt Council's plan for Parramatta Road and to commence investigating policies that will foster live music within the LGA. In April 2014, Council resolved (C116/14) to endorse the scope of works recommended by the Parramatta Road Live Music Zone Reference Group. In August 2014, Council resolved (C267/14) endorse the further recommendations of the Reference Group regarding ongoing consultation with stakeholders and a number of site specific planning reviews.

Small bars can play a role in achieving all the above objectives. They can help establish night time economies and encourage the use of existing public transport and taxi services.

6. Approval Process for Small Bars

Applicants for new small bars are required to lodge a development application with Council. Development consent is also required where amendment of approved hours of operation is sought or to vary conditions of a previous consent. This includes where an existing restaurant or café seeks a "change of use" to become a "wine bar" (where the primary activity is the sale of liquor) within its existing approved hours. Once consent is granted, an application for a liquor licence is made to the Independent Liquor and Gaming Authority.

Development consent is not required for a new small bar where a venue has an existing council approval to sell liquor. Applicants however must lodge a small bar licence application and Community Impact statement with the Independent Liquor and Gaming Authority. These licence applications are referred to Council for comment to ensure that community and local amenity issues are considered before a licence is issued.

7. Leichhardt Local Environmental Plan 2013

In April 2013, amendments to the *Liquor Act 2007* and the *Standard Instrument - Principal Local Environmental Plan* permitted *small bars* with consent in zones wherever the following land uses were permitted:

- Commercial premises,
- Retail premises, and
- Food and drink premises.

Small bars are included within the *food and drink premises* definition as shown in the table below. *Food and drink premises* are a type of *retail premises* which is a subset of the group term *commercial premises*.

Definitions
Food and Drink Premises means premises that are used for the preparation and retail sale of food and drink (or both) for immediate consumption on or off the premises, and includes any of the following: a) a restaurant or café; b) take away food and drink premises, c) a pub, d) a small bar.
Small Bar means a small bar within the meaning of the <i>Liquor Act 2007</i> .

Small bars are permissible with consent in the following zones under the *Leichhardt Local Environmental Plan 2013*:

- B1 Neighbourhood Centre;
- B2 Local Centre;
- B4 Mixed Use; and
- IN2 Light Industrial.

The permissibility of small bars was not considered as part of the translation of *Leichhardt Local Environmental Plan 2000* into *Leichhardt Local Environmental Plan 2013* due to the timing of the legislative changes.

In addition to the abovementioned zones, small bars also became permissible on sites where commercial premises were permitted with consent under Schedule 1 (Additional permitted uses) of LEP 2013. This was corrected as part of LEP Amendment No. 4, published on the NSW Legislation website on 7 August 2015, Schedule 1 provisions were amended to more closely align with the intentions of LEP 2000. The inclusion of 'commercial premises' had unintentionally permitted a number of land uses previously not permissible on certain sites identified in the Schedule. As a result of the amendment, small bars are no longer an additional permitted use on these sites.

8. Leichhardt Development Control Plan 2013

The Leichhardt DCP 2013 includes provisions that apply to development applications for all types of licensed premises, such as:

- Minimum notifications
- Social impact assessment
- Parking
- Interface amenity
- Plans of Management that address site, operational, security and safety, trading hours, noise and transport matters;
- Trading hours and trial periods.

The current provisions within DCP 2013 relating to licensed premises were translated from the previous Development Control Plan 2000. The controls had been established in September 2005 and the 'Late Night Trading Areas' maps incorporated in July 2008.

Some of the controls that apply to small bars, for example parking rates and information to be contained within a Plan of Management, were originally devised for larger licensed premises such as registered clubs and pubs. Small bars however have less impact than these larger licensed premises and more appropriate parking and other controls may be necessary.

Likewise DCP 2013 allows for small bars to trade to 10pm. Applications to trade after 10pm are considered on their merits. Extended hours of operation until 12am (midnight) or 1am are permitted in late night trading areas. Live music initiatives may have implications for late night trading policies and consequently for small bars.

Comparative Analysis

Tables 3 and 4 below summarise a comparative analysis of the permissibility of small bars across a range of 11 land use zones in Leichhardt and seven other inner city local government areas. Leichhardt does not have B3 Commercial Core, B5 Business Development and IN1 General Industrial zones. The rest of this subsection considers the appropriateness of the 8 other land use zones from this range for small bars in the Leichhardt LGA.

In overall terms the Tables demonstrate that it is common for small bars to be permissible with consent in B2 Local Centre and B4 Mixed Use zones. There are variations between different LGAs across all the other zones reviewed.

Table 3: Permissibility of small bars

Note: **Permissible*** means permissible with consent

LGA	R1	R3	B1	B2	B3	B4	B5	B6	B7	IN1	IN2
Small Bars											
Leichhardt	Prohibited	Prohibited	Permissible*	Permissible*	Permissible*	Permissible*	N/A	N/A	Prohibited	N/A	Permissible*
City of Sydney	Permissible*	N/A	Permissible*	Permissible*	Permissible*	Permissible*	Permissible*	Permissible*	Permissible*	Permissible*	N/A
Marrickville	Permissible*	Permissible*	Permissible*	Permissible*	N/A	Permissible*	Permissible*	Permissible*	Prohibited	Prohibited	Prohibited
North Sydney	N/A	Prohibited	Prohibited	N/A	Permissible*	Permissible*	N/A	N/A	N/A	N/A	Prohibited
Woollahra	N/A	Prohibited	Prohibited	Permissible*	N/A	Permissible*	N/A	N/A	N/A	N/A	N/A
Randwick	Prohibited	Prohibited	Permissible*	Permissible*	N/A	N/A	N/A	N/A	N/A	N/A	Prohibited
Ashfield	N/A	Prohibited	Permissible*	Permissible*	N/A	Permissible*	N/A	Prohibited	N/A	N/A	Prohibited
Canada Bay	Permissible*	Prohibited	Permissible*	NA	Permissible*	Permissible*	N/A	Permissible*	Permissible*	Prohibited	N/A

Table 4: Permissibility of pubs

Note: **Permissible*** means permissible with consent

LGA	R1	R3	B1	B2	B3	B4	B5	B6	B7	IN1	IN2
Pubs											
Leichhardt	Prohibited	Prohibited	Permissible*	Permissible*	Permissible*	Permissible*	N/A	N/A	Prohibited	N/A	Prohibited
City of Sydney	Permissible*	N/A	Permissible*	Permissible*	Permissible*	Permissible*	Permissible*	Permissible*	Permissible*	Permissible*	N/A
Marrickville	Prohibited	Permissible*	Permissible*	Permissible*	N/A	Permissible*	Permissible*	Permissible*	Prohibited	Prohibited	Prohibited
North Sydney	N/A	Prohibited	Prohibited	N/A	Permissible*	Permissible*	N/A	N/A	N/A	N/A	Prohibited
Woollahra	N/A	Prohibited	Prohibited	Permissible*	N/A	Permissible*	N/A	N/A	N/A	N/A	N/A
Randwick	Prohibited	Prohibited	Permissible*	Permissible*	N/A	NA	N/A	N/A	N/A	N/A	Prohibited
Ashfield	N/A	Prohibited	Permissible*	Permissible*	N/A	Permissible*	N/A	Permissible*	N/A	N/A	Prohibited
Canada Bay	Permissible*	Prohibited	Permissible*	Permissible*	Permissible*	Permissible*	N/A	Permissible*	Permissible*	Prohibited	N/A

*Note that IN3 Heavy Industrial is not present in any of the above mentioned LGAs.

9. R1 General Residential

Under *Leichhardt LEP 2013* small bars are prohibited in the R1 zone, however restaurants and cafes are permissible with consent. Small bars are inconsistent with the R1 General Residential zone objectives because of their potential to have negative impacts on residential amenity and consequent changes to the character of residential areas.

The amenity of an area is influenced by a range of factors such as noise and odour, access to services and facilities, visual characteristics, socio-economic factors, levels of crime, prevalence of alcohol related harm, sense of security and safety, lighting and health standards. Even small licensed premises might generate issues such as noise anti-social behaviour, pavement queuing and remoteness from taxi ranks and public transport which are incompatible with residential areas.

Most of the surveyed councils do not permit small bars in their R1 zones. City of Sydney, Marrickville and Canada Bay do allow small bars in R1 Their R1 areas are only a small proportion of their total residentially zoned land and small bars are not permitted in their other residential zones. This is in contrast to Leichhardt where the vast majority of residential areas are zoned R1. It is recommended that small bars continue to be prohibited development within this zone.

10. R3 Medium Density Residential

Small bars are prohibited in the R3 Medium Density Residential zone under Leichhardt LEP 2013. This zone aims to provide medium density residential accommodation and facilities and services to meet the day-to-day needs of the residential population. Only Marrickville amongst the surveyed Councils permit small bars in R3 zones. Similar to the R1 General Residential zone, the residential characteristics of the R3 zone in Leichhardt LGA are likely to be incompatible with small bars. It is recommended that small bars continue to be prohibited development within this zone.

11. B1 Neighbourhood Centre

Under Leichhardt LEP 2013 small bars are currently permissible with consent in the B1 Neighbourhood Centre zone. Other venues that may require a liquor licence, such as restaurants, cafes and pubs are also permissible with consent in this zone. This zone complements the surrounding residential neighbourhoods without competing with the larger B2 Local Centres. The *Leichhardt Local Environmental Plan 2013* objectives for the B1 Neighbourhood Centre are:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To ensure that development is appropriately designed to minimise amenity impacts.*
- *To allow appropriate residential uses to support the vitality of neighbourhood centres.*

All of the surveyed Councils except North Sydney and Woollahra permit small bars in B1 zones. There are eight areas zoned B1 Neighbourhood Centre in the Leichhardt LGA (refer to Figure 1 below). All of these locations fall outside the late-night trading areas identified in the Leichhardt Development Control Plan 2013. Most of these are small surrounded by residential neighbourhoods and remote from taxi facilities. Retaining small bars and pubs as permissible with consent in the B1 Neighbourhood Centres could have amenity implications for the surrounding residential areas relating to safety, intensification of use and traffic. The character of the surrounding areas could be altered and the potential for land use conflicts and complaints increased.

Small bars and pubs support the night time economy of B2 Local Centres. Locating small bars and pubs in B1 Neighbourhood Centres could dilute this role in the night time economy of B2 Local Centres. Given that small bars and pubs can support live music initiatives it is desirable that be they are located in more business orientated B2 Local Centres. It is recommended that 'pubs' and 'small bars' be prohibited in this zone.

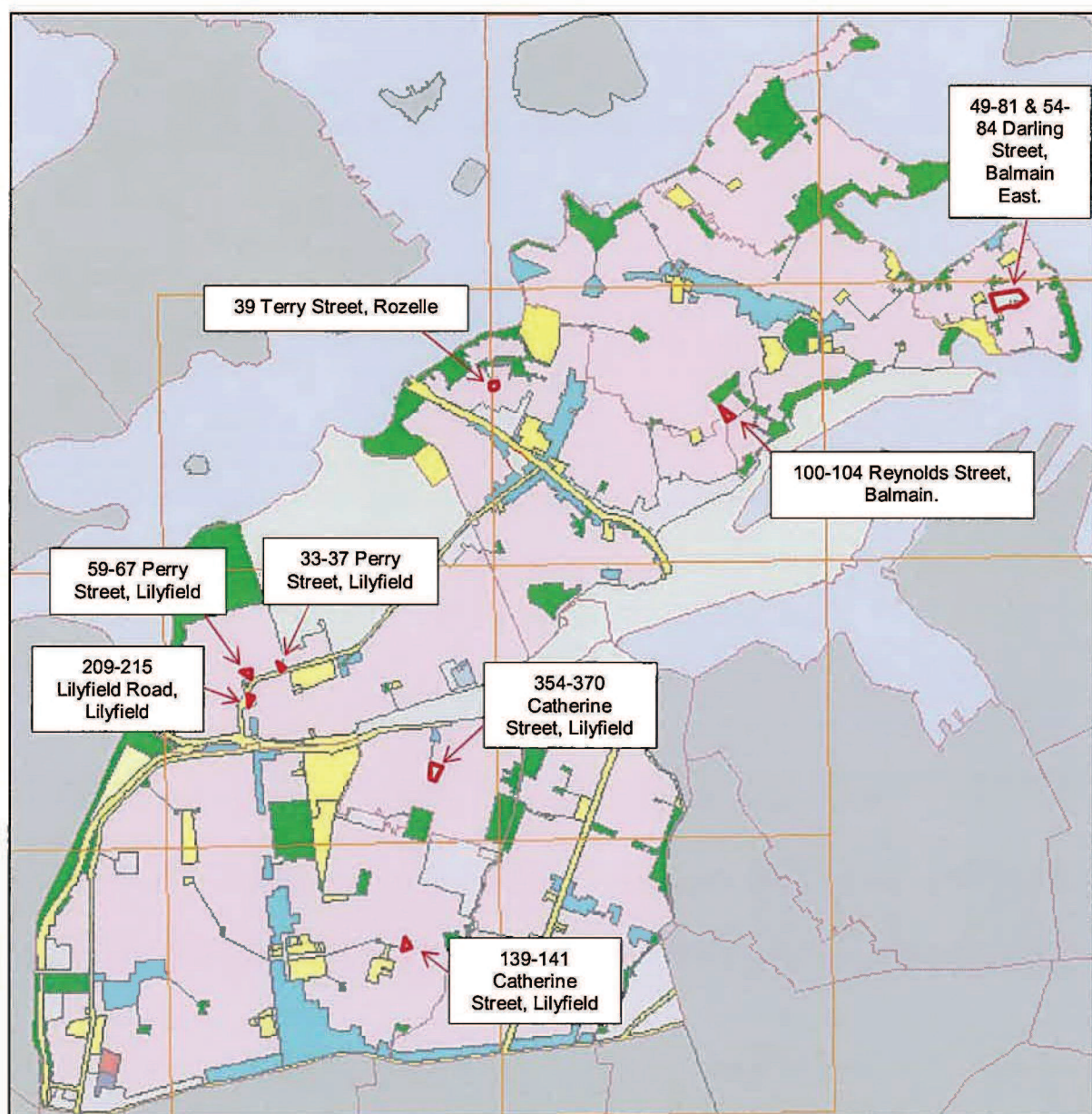


Figure 1: Location of the eight B1 Neighbourhood Centres

12. B2 Local Centre

It could be argued that some parts of B2 Local Centre zones are also poorly located in terms of their proximity to residential zoned land. The merit based assessment of proposals which are poorly located would discourage these unless acceptable mitigation measures are implemented. All the surveyed Councils permit small bars in B2 zones and in strategic planning merit terms B2 Local Centres are the most appropriate location for the development of small bars. These include Parramatta Road, Norton Street, Booth Street, Darling Street and Victoria Road. The majority of late night trading activities will occur in this zone and it is recommended that small bars continue to be permissible with consent in the B2 Local Centre zones.

13. B4 Mixed Use

Small bars are permissible with consent in this zone under the *Leichhardt LEP 2013*. One of the objectives of the zone is to integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling. In principle, small bars are appropriate in B4 Mixed Use zone. All the surveyed Councils that have B4 zoned land allow small bars in this zone.

Leichhardt has only one area zoned B4 Mixed Use at 22 George Street, Leichhardt, (also known as the 'Kolotex' site). The site is located outside the late night trading precincts and recognised shopping streets and is not ideally situated for the promotion of night time activities. However, given that the B4 Mixed Use is a higher order business zone and that the Kolotex site is close to Parramatta Road. It is recommended that small bars should continue to be facilitated in this zone. The merit based assessment of proposals for this site will mitigate potential negative impacts on nearby residential properties through imposition of appropriate development consent conditions.



Figure 2: Location of the only B4 Mixed Use zone in Leichhardt LGA

14. B7 Business Park

City of Sydney, Canada Bay and Marrickville permit small bars in their B7 zones. The other surveyed Councils either prohibit small bars in B7 or do not have any B7 zones. Under the Leichhardt LEP 2013, small bars are currently prohibited in the B7 Business Park zone, along with all other food and drink premises including restaurant and cafes, take-away food and drink premises and pubs. The zone objectives are:

- *To provide a range of office and light industrial uses;*
- *To encourage employment opportunities;*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area;*
- *To provide for limited residential development in conjunction with permissible active ground floor uses; and*
- *To provide for certain business and office premises and light industries in the arts, technology, production and design sectors.*

Leichhardt has two live-work sites zoned B7 Business Development at 55-79 and 62-84 Justin Street, Lilyfield, and 10 Cahill Street, Camperdown (see Figure 3 below). Both sites were zoned B7 Business Development as the closest LEP standard template definition for existing live-work development approved under LEP 2000.

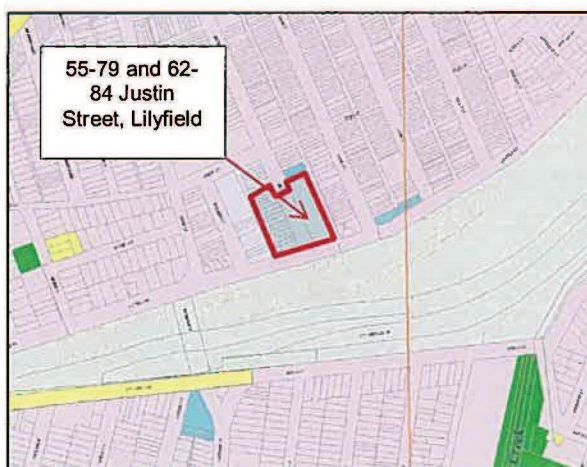


Figure 3: Justin Street B7 Zone

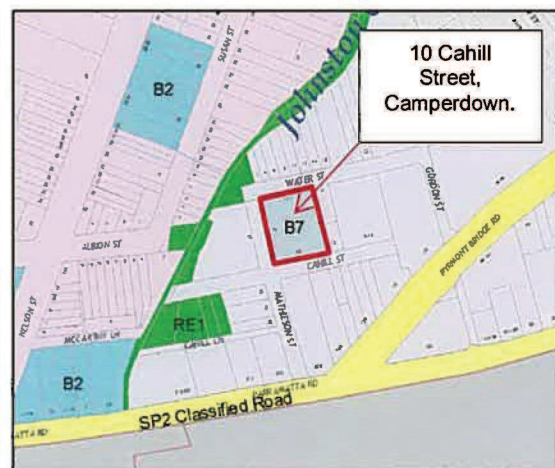


Figure 4: Cahill Street B7 Zone

Both locations were redeveloped to support small creative businesses and their owners who wish to work from home. The semi-residential characters of these two sites mean they should be protected from the potential negative impacts of small bars, which can be more readily absorbed in B2 zones in the LGA. It is recommended that small bars continue to be prohibited in this zone.

15. IN2 Light Industrial

Under the Leichhardt LEP 2013, small bars are currently permissible with consent in the IN2 Light Industrial zone. Leichhardt is the only Council of those surveyed where small bars are permissible with consent in the IN2 zone.

There are examples in Marrickville LGA where premises exhibiting the characteristics of small bars operate in conjunction with small and micro-breweries in IN2 Light Industrial areas. Technically these are industrial retail outlets and not small bars. This type of industrial retail outlet can also be developed as permissible with consent in the IN2 zone under *Leichhardt LEP 2013* with the floorspace restricted to either 20% of the gross floor area, or 100m², whichever is the lesser.

At its Policy Meeting of February 2015, Council endorsed the Leichhardt Industrial Lands Study which recommended that Council protect its existing industrial land and facilitate the provision of additional industrial floorspace. The IN2 Light Industrial zones provide unique opportunities for creative industries, low cost floorspace for the manufacture of goods and services, such as recording studios, learning and training facilities, practice and performance spaces, and the making of goods and hardware.

Further consideration needs to be given to the permissibility of small bars in IN2 zone and the potential implications for Leichhardt's industrial precincts. Council's Industrial Land Study follow up Industrial Lands Precinct Planning work is underway. This work will establish a coherent vision for each industrial precinct and consider the suitability of existing and additional permitted uses such as small bars within these areas. It is recommended therefore that for the time being small bars continue to be permissible with consent in the IN2 zone.

Late Night Trading Policies Analysis

A comparative analysis of the overall planning policy approaches to small bars in the Marrickville, City of Sydney and North Sydney LGAs was also undertaken. This is provided as Attachment 2 with a summary below:

- Small bars formed only one component of broad reviews of how Councils might support night time economies in business and retail corridors.
- Each council applies a late night trading activity hierarchy of centres within which small bars are considered to be low impact with less stringent planning controls than larger facilities.
- Small bars tended to be located primarily within business and retail precincts in existing shop premises.
- Specific parking requirements were generally not explicitly stated or enforced for small bars.
- Small businesses were supported by local economic development initiatives.
- Marrickville, Leichhardt and the City of Sydney are currently reviewing planning provisions to support live music initiatives as part of the Live Music Reference Group and this review may have future implications for small bars.

16. City of Sydney Live Music Matters Report

In October 2012, the City of Sydney Council unanimously endorsed the establishment of a Live Music and Performance Action Plan and taskforce to address the decline in the number of live music venues operating in the LGA. The taskforce subsequently confirmed that development controls and noise complaints were factors which had led to the closure of existing venues and inhibited the development of new venues. The report noted that the development assessment

process can be disproportionately burdensome or unsuitable for some music and performance activities. It can also be prohibitively expensive for many applicants.

The City of Sydney is currently undertaking a review of the Sydney Development Control Plan 2012 to optimise its support for the live music and performance sector by identifying and protecting areas with strong traditions of live music and performance, and by supporting related developments in areas where urban and cultural amenity can be improved by live music and performance activity. This includes an investigation into opportunities across the City of Sydney to streamline approval processes for low impact live music and performance activities, including consideration of expanded exempt and complying development provisions in the *Sydney Local Environmental Plan 2012*.

17. Marrickville

Marrickville Council has also recently adopted a Live Music Action Plan, which has recommended that a zoning review of Parramatta Road should be undertaken to assess the implications of LEP land use zones on live music and creative venues. Leichhardt, City of Sydney and Marrickville have formed a complementary Live Music Reference Group to address best practice and music industry advice. Live music and the development of small bars and ancillary businesses are seen to have significant potential for the creation of economic renewal, aesthetic and amenity improvements and for boosting the cultural fabric and identity of areas.

18. North Sydney

North Sydney Council recently adopted changes to the late night trading provisions of the North Sydney Development Control Plan 2013 following a review which commenced in July 2013. The review was triggered by a Direction in Council's Delivery Program to revisit and resolve late night trading and small bars issues.

The changes implemented include:

- Zone-based trading hours which promote late night trading activities within the B3 Commercial Core by allowing extended base hours and opportunities to apply for trial periods. Base operating hours decrease on a scale through the B4 Mixed Use, B2 Local Centre and B1 Neighbourhood Centre zones, and trial periods are not allowed in these zones.
- Specifying trading hours for outdoor seating areas to internalise noise impacts after certain times based upon zoning.
- Outlining acoustic controls in line with industry requirements regarding noise generation. An Acoustic Report will be required to be submitted for development applications including pubs, small bars, outdoor dining areas and smoking areas to demonstrate compliance.
- Requiring doors and windows on elevations fronting residential properties to be closed in accordance with outdoor trading hours where noise is likely to negatively impact upon adjoining residential properties.
- Where a site has two frontages, patron entry and exit is required from the primary road frontage after 10pm to reduce noise and nuisance to surrounding residential properties;

- Restricting the emptying of garbage/recycling (in particular glass bottles) into externally located bins after 10pm where this may be audible and disturb nearby residents.
- New guideline for smoking areas to ensure these are established as short-term 'breakout areas' to minimise their impact upon surrounding properties.
- Requiring applicants to prepare a Premises Management Checklist to provide Council with adequate information in which to assess the development application.

Next Steps

The Council resolution (**C82/14**) of March 2014 asked for a planning proposal to facilitate small bars in appropriate areas.

A number of Council's strategic and cultural objectives can be assisted by facilitating small bars in appropriate areas. This report recommends changes for both the *Leichhardt Local Environmental Plan 2013* and Leichhardt Development Control Plan 2013 that will support this objective. These proposed changes reflect consideration of small bars, live music venues, operating hours, the promotion of small business and revitalisation of local centres. These initiatives are all identified in Council policy for action in 2015-2016 and the LEP and DCP amendments will require an integrated approach by a range of Council departments to ensure they are implemented successfully.

It is also important to understand that a licensed small bar has a maximum capacity of only 60 persons and that a restaurant or cafes with an on-premise or general bar liquor licence can operate like a small bar but with a capacity of over 60 persons. For this reason, both the City of Sydney and Marrickville have taken the approach that characterises licensed restaurants, cafes and small bars with a maximum capacity of 120 persons as low impact premises.

19. Planning Proposal to amend Leichhardt Local Environmental Plan 2013

This attached Planning Proposal recommends the following changes to the *Leichhardt Local Environmental Plan 2013*;

- a change of use exemption be created to allow small bar developments to occur within existing restaurant and cafe premises and vice versa in B2 Local Centres; and
- that pubs and small bars are prohibited in the B1 Neighbourhood Centre zone.

The draft planning proposal to amend LEP 2013 is Attachment 6.

Change of Use Exemption Clause

The background analysis for this report has found that restaurants and cafes with a general bar licence operate in much the same way as a small bar. Both Marrickville and the City of Sydney councils consider that food and drink premises with capacity of 120 patrons or less should be assessed against many of the development control that apply to small bars. The proposed changes to the Leichhardt Development

Control Plan in Section 20 below recommend that a similar approach be adopted in Leichhardt.

The proposed amendments to the Leichhardt Development Control Plan 2013 would mean that small bars, restaurants and cafes have to meet the same planning requirements. It therefore stands to reason that a land use change between these land uses should be made exempt development in the B2 Local Centre zone as effectively no development or operational changes arise from this type of change of use.

The following proposed clause in Schedule 2 of the LEP 2013 addresses this issue:

The following development does not require development consent under Leichhardt Local Environmental Plan 2013:

- a) *a change of use of a building which currently has development consent for use as a restaurant and café to a small bar or development consent for a small bar to a restaurant and cafe where:*
 - i. *the building is on land zoned B2 Local Centre; and*
 - ii. *the new use operates in accordance with the current conditions of development consent relating to its use as a restaurant or café or as a small bar and which has capacity for no more than 120 patrons.*

20. Proposed Amendments to Leichhardt Development Control Plan 2013

The following sections of the Leichhardt Development Control Plan 2013 are proposed to be amended:

- C4.11 Licensed Premises and Small Bars
- C1.11.1 General Vehicle Parking Rates

It is recommended that Council takes a similar approach to the City of Sydney and Marrickville councils by considering small bars, restaurants and cafes with capacity for 120 persons or less as 'low impact' premises with less onerous development controls than those applied to higher impact premises such as pubs, registered clubs and licensed hotels.

In order to achieve a balance between facilitating small bars and amenity, the proposed changes also include new provisions to minimise noise impacts for nearby residential areas.

The proposed DCP 2013 amendments are in Attachment 4.

C4.11 'Licensed Premises and Small Bars'

The proposed changes to this section include inserting a definition of low impact premises, which includes:

- a) A hotel within the meaning of the *Liquor Act 2007* that has a capacity of 120 patrons or less and is designated as requiring a general bar licence;
- b) Premises that have capacity of 120 patrons or less where the primary purpose is the sale or supply of liquor for consumption on the premises;

c) An on-premise licence within the meaning of the *Liquor Act 2007*;

Currently, DCP 2013 sets out an onerous set of requirements for licensed premises that have to be addressed as part of the Plan of Management for such development applications. The majority of these requirements are aimed at addressing issues that arise with high impact premises and require unnecessary detail for lower impact premises. It is proposed that a simplified set of Plan of Management requirements for low impact premises are created, which is similar to the approach of the City of Sydney which only requires that a 'Plan of Management Checklist' to be submitted with the development application for low impact premises.

The simplified Plan of Management checklist for low impact premises requires the following information:

- Measures to minimise noise on adjoining properties;
- Waste management policies;
- Staff details;
- Security and surveillance measures;
- Patron management procedures; and
- Description of operating hours.

It should be noted however that the City of Sydney's 'Live Music Matters Taskforce' is currently investigating innovative planning measures which promote live music venues. This process may trigger further Leichhardt Council planning policy changes in the future.

In the meantime the existing Leichhardt DCP 2013 controls for Late Night Trading Areas standard conditions and provisions relating to business-residential interfaces are generally appropriate and effective. They can be however refined with the inclusion of more specific controls set out below.

- External doors, windows and openings are to be closed by 10pm where they are adjacent to residential zones to limit noise impacts.
- The transfer of waste, particularly glass bottles, into outdoor garbage/recycling area must not occur after 10pm where this would likely be audible from surrounding residential properties.
- A floor plan that indicates the proximity of external doors, windows and other openings to residential and other sensitive land uses;
- Details of all measures that will be taken to ensure that amenity impacts that may result from the operation of the premises are minimised; and
- Identification of the most commonly used pedestrian routes to and from the premises.

A number of minor editorial changes have been incorporated into this proposed DCP amendment to adjust numbering and referencing of the additional clauses.

C1.11.1 General Vehicle Parking Rates

This section states the development control provisions relating to small bars and licensed premises. The general car parking rates for off-street parking spaces are provided in accordance with Table C4: 'General vehicle parking rates', although it should be noted that small bars and pubs are not specifically identified in this table.

Therefore the aim of this amendment is to clearly define appropriate vehicle parking requirements for small bars and make minor editorial changes. An internal project team involving staff from Strategic Planning, Development Assessment, Strategic Transport Planning, and Traffic and Parking Engineers undertook the 'Small Bars Review of Parking Requirements' (Attachment 5).

This review found that the following matters should be considered when developing an appropriate rate of parking provision for small bars in Leichhardt;

- The nature of small bars tends to be that they are not a single destination, rather they are venues within a multi-destination trip to an existing locality;
- Restaurants and hotels are generally considered to be single destinations (in comparison to small bars)
- Once small bars are located within shopping/entertainment areas, several other land uses, such as restaurants, cinemas and theatres become part of multi-destination scenarios with patrons attending two (2) or more of the venues in the area in the same trip;
- If located close to other venues with similar a clientele (eg cinemas, theatres, restaurants and music venues) small bars have the potential to extend the period of stay in a locality and consequently the individual trip spend level;
- Leichhardt Council is attempting to minimise private car dependency;
- It is imprudent to encourage patrons of bars to rely on private car travel after consuming alcohol;
- Should small bars be limited to existing shopping streets, many of these streets have sufficient levels of parking vacancy at night to accommodate the limited demand likely to be generated by a small bar;
- The opportunity to provide new off-street parking spaces within Leichhardt's recognised shopping streets is very limited. Only new developments which amalgamate several sites and/or demolish existing buildings can provide new parking spaces. While a small bar could be included as a component of such a development it is unlikely a stand-alone small bar would be able to provide new off-street parking spaces; and
- The majority of residential areas adjacent to shopping streets in the Leichhardt area are protected by time restricted kerbside parking controls.

Having examined the rates of parking provision required by other councils, it is clear that none have specifically addressed the demands of small bars however the City of Sydney does take public transport accessibility into account. The rates required by other Councils are similar to those in Leichhardt. In addition, Leichhardt currently provides a parking exemption for the first 50m² GFA for restaurants and cafes in recognised shopping precinct.

The potential to extend this exemption to small bars was examined in the review with the following conclusions:

- Small bars will generally be in existing shopping streets;
- Small bars are likely to experience their peak demand later in the evening than the peak demand period for many other uses in shopping streets;
- Small bars must cater to 60 patrons or less, and are unlikely to exceed 50-80m² GFA;

- Many of Leichhardt's shopping streets currently exhibit some parking availability that would coincide with small bar peak use;
- The majority of small bar patrons will visit other premises in a shopping street (hence their parking demand will have generally been accommodated before they visit the bar);
- The majority of residential areas adjacent to Leichhardt's shopping precincts are protected by time restricted kerbside parking controls;
- Small bars focus on the provision of alcohol rather than food, consequently it is not desirable to encourage patrons to drive to the venue.

Consequently there is justification for providing vehicle parking at a rate lower than that specified in C1.11.1 of the DCP because:

- Peak parking and traffic activity occurs during periods where surrounding parking demand is lowest;
- Existing site and building constraints make provisions of car parking impractical;
- Located adjacent to high-frequency public transport services and/or urban services;
- Includes management regimes to minimise car use, such as workplace travel plans or on-site car share schemes;
- Provides a business or social service that benefits that local community and contributes to the vitality of the area;
- Development targeted to a demographic sector with low car use/ownership;
- Safety of motorists, pedestrians and cyclists is unduly compromised by provisions of parking;
- Development contributes to heritage conservation of the building and setting; and
- Parking for the development is consistent with the aims and objectives of the section of the DCP.

The parking provision review concluded that Table C4: 'General vehicle parking rates' of the DCP 2013 should be amended to include 'small bars' with the parking requirements of restaurants and cafes, and that the exemption of the first 50m² for restaurant and cafes should also apply to small bars if the premises is located in a recognised shopping street. It is also recommended that, the impacts of these parking rates be reviewed approximately 12 months from their adoption. Attachment 5 to this report shows the DCP recognised shopping precincts.

21. Integrated Council Approach

The effective implementation of these planning policies will require an integrated Council approach involving the Assessment, Compliance and Economic Development teams.

Compliance and Enforcement

The residential interface with late night trading venues can be a problematic issue for Council. It is ongoing and requires a flexible approach that respects the rights of residents and venue operators. In the past, this issue has been a difficult issue for

Council which led to the implementation of the 'Live Music Venues Good Neighbour Policy' in February 2013.

The 'Live Music Venues Good Neighbour Policy' aims to implement an informal negotiation process between residents and venue operators before compliance officers need to be involved. The policy aims include:

1. To end the prosecution of live music venues Councils must convene monthly meetings between licensees and neighbouring residents to proactively resolve noise issues and explain the rights of existing venues;
2. Greater protection to be given to long standing venues against newly arrived neighbours making complaints;
3. Council Cultural Officers must be consulted about noise complaints prior to undertaking any compliance action; and
4. Councils will be required to liaise with Music Industry peak bodies and the Office of Liquor Gaming and Racing before initiating legal action.

This policy is aimed at educating residents, patrons and venue operators of each other's rights and informally negotiating solutions to issues that arise. The compliance team have an important role as an educator for new and existing venue operators regarding their responsibilities and place within the community.

The aim of the interactions between Council's Compliance team and late night trading venue operators should be to negotiate sensible and desirable outcomes for both operators and residents. This involves taking a flexible approach where enforcement notices are considered a last resort if negotiations practices break down.

Marrickville Council have been following this approach for many years and have had overwhelmingly positive results. This approach has facilitated a positive dialogue between stakeholders whereby a process of education and learning can take place for both Council and the venue operators. In most instances Marrickville have found that venue operators respond quickly and effectively to the informal approach, especially new operators who may not be aware of local issues.

Economic Development

The amendment of the planning provisions alone will not ensure small bar development will happen. This is especially true for potential small business operators who face many risks and challenges as a result of broader economic issues. The City of Sydney has previously implemented economic development schemes to complement new planning provisions. These are described in detail in Attachment 2 and include:

- Preparation of 'how to' pamphlets for small business development applications that target late night activities in business precincts;
- The employment of a Business Development Officer;
- Establishment of regular information sessions called 'Small Bars 101' as free public events; and
- Small business grants

The preparation of educational and promotional programs to help facilitate small bars could help achieve an increase in the number of small bars. Small bars and other

low impact premises may be able to enliven unused spaces and business orientated public domains, and a coordinated approach from Council departments will help ensure small bars enhance the vitality of the night time economy.

Summary/Conclusions

This report aims to implement best practice planning policies as a response to Council resolution C82/14. The review has focused on low impact late night trading activities and related strategic initiatives. This project will involve the implementation of the proposed changes to the planning provisions within the *Leichhardt Local Environmental Plan 2013* and Development Control Plan 2013 and require a whole of Council approach to ensure the successful management of policies and controls designed to facilitate small bars and support the night-time economy.

Attachments

- Attachment 1 - Previous Council Report 25 March 2014
- Attachment 2 - Late Night Trading Policies Analysis
- Attachment 3 - Neighbourhood Centres, Local Centres, Late Night Trading Shopping Precincts B2 and B4
- Attachment 4 - DCP 2013 C4.11 Licensed Premises and Small Bars
- Attachment 5 - Small bars - Review of Parking Requirements
- Attachment 6 - Small bars Planning Proposal

[Attachment 1 Previous Council Report 25 March 2014.pdf](#)

[Attachment 2 Late Night Trading Policies Analysis](#)

[Attachment 3 Neighbourhood Centres Local Centres Late Night Trading Sh...](#)

[Attachment 4 DCP 2013 C4.11 Licenced Premises and Small Bars](#)

[Attachment 5 Small bars - Review of Parking Requirements](#)

[Attachment 6 Small bars Planning Proposal](#)