



Late trading for businesses

Extending your trading hours – A guide for businesses
January 2020



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Introduction

About this guide

This guide is for businesses in the City of Sydney area that want to extend their trading hours.

In 2019, Council endorsed updated late night trading planning controls to provide the foundations for growth of Sydney's night-time economy into the future.

The updated their planning controls make provision for:

- a 24 hour city centre
- later hours in local centres
- new areas for new communities
- extended hours for unlicensed businesses
- a new cultural precinct in Alexandria
- expanding existing areas
- additional hour of trading for performance and culture.

If you want to trade later than your approved trading hours, you must apply to modify your development consent with the City of Sydney.

If your business has an existing liquor licence, you may also need to modify the trading hours in the licence with Liquor and Gaming NSW.

If you propose to increase the customer capacity of your business or introduce new activities, it's best to speak directly to us. Call 02 9265 9333 and ask to speak to a town planner or our night time city team.

If you're thinking about extending your trading hours, get to know your neighbours – businesses and residents. Their support is important.

Cover: Arial Booksellers, Darlinghurst
Photographer – Katherine Griffiths/City of Sydney.
Previous page: Grand Days, Woolloomooloo
Photographer – Jessica Lindsay/City of Sydney

Factors we consider in your application

Your premises

- **location and context**, including if it is near residential and other sensitive land uses and other late-trading premises
- **type of business** – for example a pub, nightclub, restaurant, performance venue or shop
- **proposed hours of operation**
- **size and capacity**
- potential for street activation and vibrancy of an area
- accessibility and frequency of **nearby public transport** during late trading hours
- provision of indoor performance, creative or cultural uses

Your plans to minimise impacts

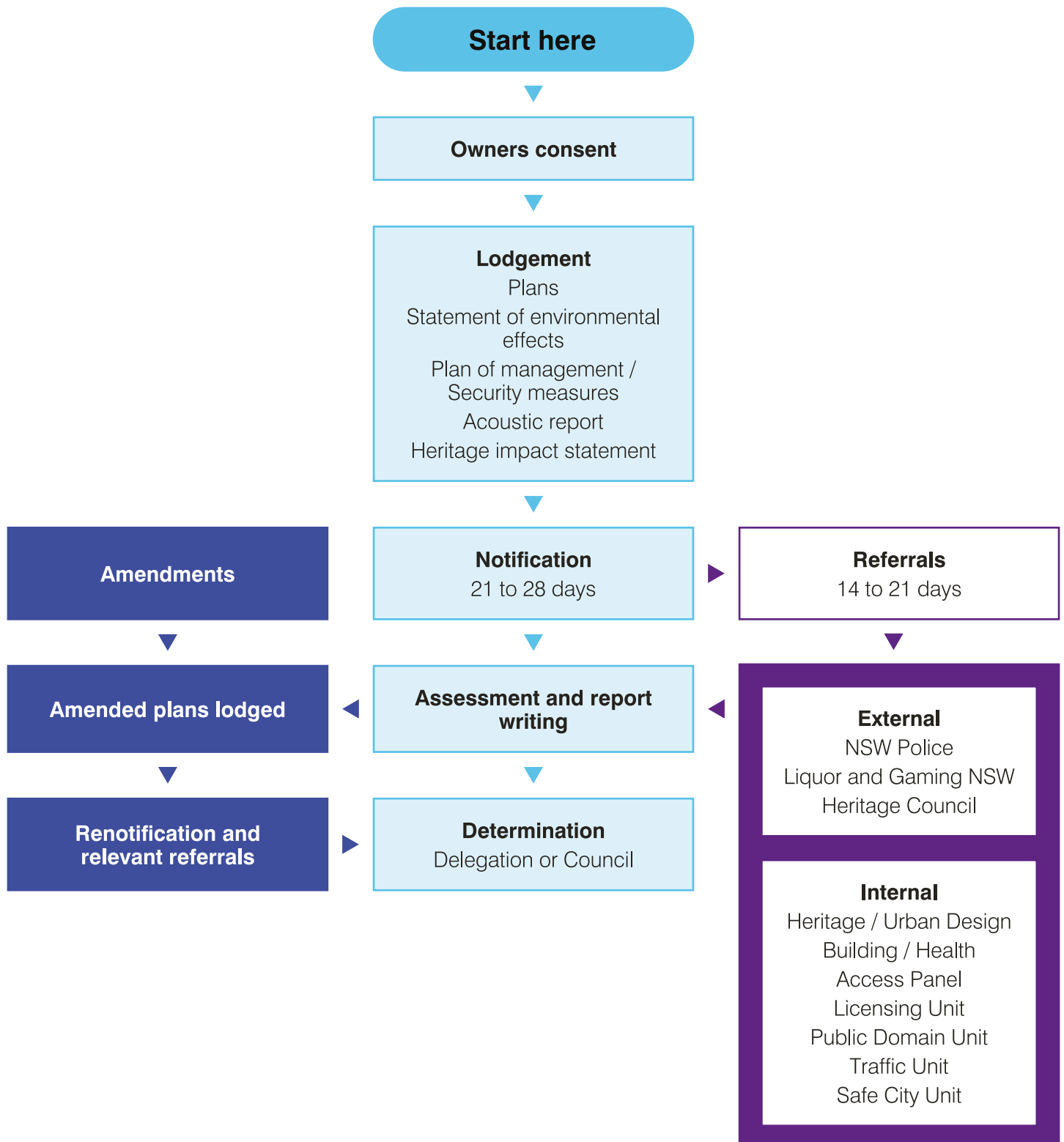
- **plans to manage potential impacts** such as noise on neighbouring premises and the public domain – and your understanding of these impacts
- **measures to ensure adequate safety, security and crime prevention** onsite and in the public spaces surrounding the premises
- impact of closing times and patron dispersal from your business

The surrounding area and the impact of your proposal on this

- the mix, diversity and possible concentration of **late-night uses** in the area
- **residential** and **other sensitive land uses**
- the diversity of retail services
- the operating hours of **surrounding businesses**



The development application steps



A quick guide to late-night trading terms

| Term | Definition |
|--|---|
| Category A High impact premises | These are venues that sell alcohol and have capacity for more than 120 patrons. Examples include some dedicated performance venues, hotels, pubs, nightclubs and karaoke venues. This category also includes dedicated performance venues with a capacity for more than 250 patrons. |
| Category B Low impact premises | These venues may sell alcohol and have capacity for less 120 patrons, or any commercial premises that may trade late and have the potential to impact on local amenity or safety. Examples include bars, small bars and some pubs, karaoke venues, restaurants and gyms in residential buildings, takeaway food shops and convenience stores. This category also includes dedicated performance venues with a capacity for up to 250 patrons. |
| Category C Unlicensed premises | These include any retail premises or business premises that does not sell, supply or allow the consumption of liquor on or off the premises or hold any license under the Liquor Act 2007. Examples include grocery stores, clothing stores, book stores, homewares, drycleaners, banks and hairdressers. This category does not include cafes and restaurants, convenience stores, gyms in residential buildings and convenience stores. |
| Extended trading hours | <p>These are hours beyond the base trading hours and are approved case-by-case depending on surrounding uses, the neighbourhood and any potential impact.</p> <p>Extended trading may be approved in two hour increments on a trial and case-by-case basis for venues with a good track record and plan of management to address impacts on residential areas.</p> |
| Additional trading hour for performance | <p>Dedicated performance venues in late-night trading areas with up to 250 patrons can apply to have one additional trading hour at closing time on a trial basis.</p> <p>All other venues in late-night trading areas that host performance can apply to have one extra trading hour at closing time on nights when they provide at least 45 minutes of performance after 6pm.</p> |
| Performance, creative or cultural uses | This includes live entertainment - an event where one or more persons are engaged to play or perform live or pre-recorded music, or a performance where performers (or at least some of them) are present in person. It includes the display, projection or production of an artwork, craft, design, media, image or immersive technology. It also includes rehearsal, teaching or discussion of art, craft, design, literature or performance. |
| Dedicated performance venue | This is a venue that may be licensed. It includes theatre, cinema, music hall, concert hall, dance hall or other space primarily for performance, creative or cultural uses, with a capacity for 250 patrons or more. It does not include a pub, bar, karaoke venue, small bar, nightclub, adult entertainment venue or registered club. |

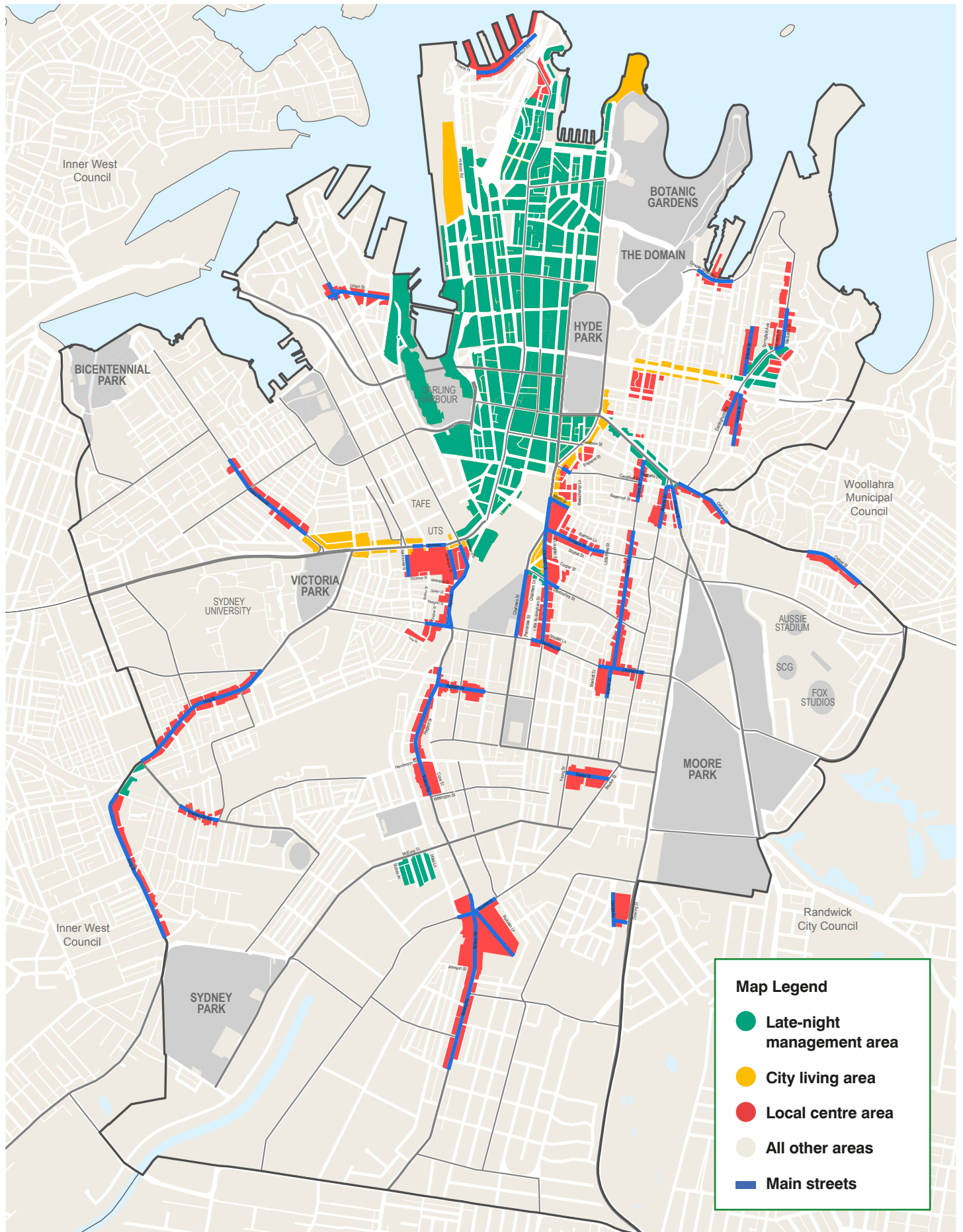
Summary of late-night trading hours and areas

| | | Category A | | Category B | | Category C |
|----------------------------|----------|------------------|-----------------|------------------|-----------------|----------------------------|
| | | Indoor | Outdoor | Indoor | Outdoor | Unlicensed premises indoor |
| Late-night management area | Base | 6am to midnight | 10am to 10pm | 6am to 2am | 7am to 10pm | 24 hours |
| | Extended | 24 hours | 9am to 1am | 24 hours | 7am to 1am | 24 hours |
| City living area | Base | 7am to 11pm | 10am to 8pm | 7am to 1am | 7am to 8pm | 24 hours |
| | Extended | 7am to 5am | 9am to midnight | 7am to 5am | 7am to midnight | 24 hours |
| Local centre area | Base | 10am to 10pm | 10am to 8pm | 7am to 11pm | 7am to 8pm | 7am to 2am |
| | Extended | 10am to midnight | 9am to 10pm | 7am to midnight* | 7am to 10pm | 7am to 2am |
| All other areas | Base | 10am to 10pm | 10am to 8pm | 7am to 10pm | 7am to 8pm | 7am to midnight |
| | Extended | 10am to midnight | 10am to 10pm | 7am to midnight | 7am to 10pm | 7am to midnight |

* or 2am if Council is satisfied that entry and egress of patrons is onto a main street

This summary map, area descriptions and definitions are provided as a summary for assistance only and are not part of the planning controls. See [cityofsydney.nsw.gov.au](https://www.cityofsydney.nsw.gov.au) for the late-night provisions in Sydney Development Controls Plan 2012 including section 3.15, Schedule 3 and the late-night trading maps.

Late-night trading area summary map



Late-night trading

Applying to extend your trading hours

Extending your trading hours may seem a minor change, but we need to assess the impact of this when reviewing your application.

To extend your trading hours you will need to send us:

- an application to modify your development consent
- a statement of environmental effects
- an updated plan of management that covers your proposed extended hours.

Depending on your business type and activity, you may need to include a noise impact assessment.

If you only want to extend trading hours, you can use a simplified modification application for late-night trading (hours only). If you want to modify any other aspects of your consent, please complete a standard modification application.

Please also read Section 3.15 Late Trading Management in the Sydney Development Control Plan 2012 at **cityofsydney.nsw.gov.au** before you start your application.

For more details on the application process, forms and fees, also see **cityofsydney.nsw.gov.au**.

Below: Kensington Street, Chippendale

Photo credit – Andre & Dominique/Destination NSW



People have told us they want to live in a city with a diverse and exciting night-time economy with events and activities for people of all ages and interests.

Step 1: General advice on planning and costs

Our planning officers can advise on the application process – you can book a time with a duty planner for general planning advice at **cityofsydney.nsw.gov.au**.

If your venue is complex or you are seeking 24-hour trading, we suggest you book a pre-application meeting with a planning officer. Examples of complex venues include large venues, having various different business activities within the same venue, and being surrounded by residential property.

You can also email our night time city team for preliminary advice at **nighttimecity@cityofsydney.nsw.gov.au**.

If you'd like a quote for the application fees, speak to a customer service representative on 02 9264 9333 or in person at one of our customer service centres or email **council@cityofsydney.nsw.gov.au**.

Step 2: Owners consent

Before lodging your application, you must obtain the building owners consent. There is a section for the owners consent on the application form.

If an application for use of the footway is being lodged, please see our outdoor dining policy and guidelines at **cityofsydney.nsw.gov.au**. Owners consent from the City of Sydney is granted as part of this approval process. If there is any outstanding debt for previous outdoor dining, this owner's consent will be refused.

Step 3: Preparing your application

Preparing your statement of environmental effects

This shows that you have considered the environmental impact of the change in hours. It outlines the measures you will take to mitigate any detrimental environmental impact, such as noise from the venue late at night, how patrons enter and exit the venue, noise from other machinery such as air conditioning, cooking exhaust fumes.

You will need to identify your business category – **high impact, low impact, or unlicensed**. See the 'quick guide to late-night trading terms' in this guide.

You may need to include a plan of management and a noise impact assessment.

Unlicensed businesses

We want to encourage a variety of non-licensed businesses trading at night, including retailers, shops and grocery stores. See the summary of late-night trading hours in this guide.

Dedicated live performance venues

Performance venues can apply for an additional hour of trading.

The definition for Category B – low impact premises has also been updated to include performance venues with a capacity of up to 250 patrons.

The application must include:

- a description of the types of music, performance or cultural events that may be staged
- details of the space, permanent or semi-permanent structures, and equipment, including staging and audience standing or seating areas
- booking and promotions arrangements for performances or events
- evidence that the venue opens primarily for the performance and there is at least one performance on when it is open.

Venues hosting cultural events and live performance

Venues in a late-night trading area can apply for an additional operating hour to the approved late trading hours for programming occasional performances, cultural programs or events.

The application must include:

- a description of the types of music, performance or cultural events that may be staged
- details of the space, permanent or semi-permanent structures, and equipment including staging and audience standing or seating areas
- booking and promotions arrangements for performances or events
- evidence of, or a plan for, regular and consistent programming.

The performance, creative or cultural use must be for a minimum of 45 minutes after 6pm and the additional trading hour will only apply on evenings featuring a performance or cultural event.

You must reference this in the plan of management and show how performances and the additional hour will be managed.

Plan of management

Your plan of management is a simple separate document that describes your management approach. The plan is enforceable by City of Sydney officers and NSW Police.

It must give a realistic picture of how you will manage your business under different conditions, from most quiet to most busy, and include plans for when operating at your highest capacity.

This includes how you will deal with issues such as the responsible service of alcohol, intoxication, non-acceptable behaviour, underage drinking and staff training.

You should also describe the level of security proposed to ensure the safe operation of the premises for patrons and neighbours. This includes any security guards, CCTV cameras, approach to the use of illegal substances, cash handling, first-aid, training of staff, fire safety, entry and exit signs, customer complaints and contact with local police.

If you are applying for an additional trading hour on the nights you program live performance, you will need to outline your performance programming. You will need to give evidence of your current or proposed program of events and include procedures for notifying neighbours about the nights when hours are extended for performance.

See Schedule 3 of Sydney Development Control Plan 2012 for a complete list of what to include in your plan of management.





Above: Frankie's Pizza, Sydney CBD
Photographer – Jamie Williams/City of Sydney

Noise impact assessment

You need to include a noise impact assessment if your proposal is likely to cause noise or the premises:

- is a licensed premises trading after 10pm
- is in a building containing residential apartments or has a party wall with an adjoining residential building
- is near a sensitive receiver such as a residential apartment, seniors housing or a school
- puts on live or amplified music
- is an outdoor space operating after 10pm
- involves a change in operations or introduction of a mechanical plant such as air conditioning, refrigeration or kitchen exhaust.

The assessment should describe the venue's operations and how you will manage operations and patrons. It should detail the proximity to residential and other premises, times and types of entertainment, the site and venue capacity.

Finding an acoustic consultant

You may need an acoustic report to evaluate the noise impact of your proposal.

If you're unsure, please book a meeting with us for general planning advice. We'll help you determine the aspects of sound transfer from your venue you need to evaluate.

A qualified acoustic consultant must prepare the acoustic report. You should consider the ability and experience of this consultant to provide practical, efficient noise control solutions.

Good acoustic consultants are likely to be members of the Australian Acoustical Society and be employed by a firm that is a member of the Association of Australasian Acoustical Consultants. See aaac.org.au for details.

You can also ask other businesses who have used acoustic consultants in the past about their experiences.

We cannot endorse individual consultants.

Step 4: Lodging your application

You can lodge your application in person at one of our customer service centres or mail it to Development Application – Modification for late trading (hours only) City of Sydney, GPO Box 159.

Our customer services centres are in Town Hall, Glebe, Green Square and Kings Cross.

Before you make a lodgement booking, please contact one of our planners to ensure your application meets **our planning controls and policies**.

Step 5: Notice times and areas

We give a minimum 21 days notice of applications to trade after 10pm in the City of Sydney area.

This involves:

- advertising in a daily metropolitan newspaper and a relevant local newspaper
- sending a letter to surrounding property owners and occupiers
- placing a notice on the property.

We may increase this time depending on the application and the likely impact of the proposal.

When the notice is for 21 days, we notify properties in a 50 metre radius of the business. When the notice is for 28 days, we notify properties in a 75 metre radius.

We notify the local police area command for all development applications for licensed businesses.

Step 6: Assessment

A planning assessment officer will consider relevant planning legislation and any comments received during the notice period. They may ask you to amend and resubmit information as necessary.

We try to process applications within 6 to 12 weeks, but it can take longer if we need to ask you for more information.

Please ensure you have the right information, including specialist reports, when you lodge your application to avoid unnecessary delays to determination.

Step 7: Determination

Unless there are 25 or more unique submissions objecting to your application, it will be determined by our staff under delegated authority and will not be required to be determined by the local planning panel.

Appeal

If you want to appeal the decision, follow the process in the letter you receive from us. This outlines your appeal rights.

Liquor licence requirements

You can apply to Liquor and Gaming NSW to amend your liquor licence at the same time as you lodge your modification of consent form.

Please review the information at **liquorandgaming.nsw.gov.au** to assist with your application.

Checklist for your application to extend trading hours

- ✓ **completed application form** – ‘Application to modify a development consent – late-night trading (hours only)’
- ✓ **signed owner’s consent** (all owners must sign) – see requirements for strata title, body corporate and company/organisations in part B of the form
- ✓ **existing plans to scale**, including location, site plans and floor plans
- ✓ **statement of environmental effects**, including:
 - description of the business and proposed modification
 - current and proposed hours of operation
 - any previous compliance issues
 - security measures
- ✓ **an acoustic report** if your proposal is likely to cause noise
- ✓ **plan of management**
- ✓ **fees** for lodging your application

Useful links

See **cityofsydney.nsw.gov.au/late-trading** for:

- information for late trading businesses, and what you need to do to apply for later trading hours
- the City of Sydney development control plan
- application forms to modify your trading hours.

See **cityofsydney.nsw.gov.au** for:

- information for outdoor dining approvals, planning controls
- the location of our customer service centres.

See **liquorandgaming.nsw.gov.au** for information and application forms for liquor licences.



