

**15 REPORT OF THE DIRECTOR PLANNING, ENVIRONMENT AND COMMUNITIES****15.1 Kiama's visitor economy: Exploring the potential of a Special Entertainment Precinct (SEP)**

CSP Objective: Outcome 3.2: An economy that embraces the opportunities of tourism while ensuring that we don't lose our community feel; our tourism development and the visitor economy is well managed.

CSP Strategy: 3.2.2 Support sustainable local business development, visitations and events.

Delivery Program: 3.2.2.1 Deliver Kiama Tourism and Events Strategic Plan 2022-26.

Item 15.1

**Summary**

At its meeting on 16 July 2024 (24/238OC), Council resolved to:

1. *Reaffirms its commitment to develop a Night-time Economy Strategy to support the vibrancy of our community and local businesses.*
2. *Supports the petition to the NSW Legislative Council which calls on the Hon John Graham MLC, Minister for the Night-time Economy, to support the development of a Special Entertainment Precinct in the Kiama Town Centre.*
3. *Write to the Hon John Graham MLC in support of the petition and call on the NSW Government to further consult Council and the community to deliver a Special Entertainment Precinct in the Kiama Town Centre.*
4. *Allow for copies of the petition to be hosted at the Administration Building, Kiama Library and Gerringong Library and Museum."*

This report provides the newly elected Council with an update on the State Government's Vibrancy reforms and to confirm that Council will be reviewing its Tourism & Events Strategic Plan with a view of converting it into a Visitor Economy Strategy.

**Financial implication**

There are no financial implications associated with the implementation of the proposed recommendations outlined in the report. The review of the existing Tourism and Events Strategic Plan is already included in the Tourism and Events Team's work program.

Confirmation has been obtained from the Department that any funds expended in compliance with the grant conditions for the preparation of SEP documentation will not need to be returned, even if the resulting Planning Proposal report is not adopted by Council.

**Risk implication**

Nil

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**Policy**

Nil

**Consultation (internal)**

Manager of Planning and Economic Development

Director Planning, Environment & Communities

Cultural Development Officer

**Communication/Community engagement**

Communication with the community representatives driving the Kiama Entertainment Precinct.

**Attachments**

Nil

**Enclosures**

Nil

**RECOMMENDATION**

That Council:

1. Review the existing Tourism and Events Strategic Plan with a view to convert it into a Visitor Economy Strategy, incorporating the relevant findings/recommendations of:
  - a. Kiama Major Events Impact Review and Recommendations Report
  - b. Kiama Regional Economic Development Strategy
  - c. Tourism & Events Service Review
  - d. NSW Vibrancy Reforms
2. Consult with the Kiama Special Entertainment Precinct working group and licensed venue operators on an appropriate Kiama Special Entertainment Precinct boundary.
3. Provide a report to the ordinary February 2025 Council meeting to confirm an appropriate Kiama Special Entertainment Precinct boundary.

**Background**

On 30 November 2023 the 24-Hour Economy Legislation ([Vibrancy Reforms](#)) Amendment Act 2023 and the 24-Hour Economy Commissioner Act 2023 passed through NSW Parliament.

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These cross-government reforms included a wide range of new regulations for noise, planning and liquor licensing, known as the Vibrancy Reforms. The full list of the amended series of legislation are:

- *Local Government Act 1993.*
- *Liquor Act 2007.*
- *Liquor Regulation 2018.*
- *Environmental Planning and Assessment Act 1979.*
- *Environmental Planning and Assessment Regulations.*
- *Protection of the Environment Operations (General) Regulation 2022.*
- *Gaming and Liquor Administration Regulation 2016.*

Improving the Night-Time Economy (NTE) has been a key focus of the NSW Government and Department of Enterprise, Investment and Trade over the past three years.

A number of these reforms took effect in November and December 2024, including:

- removing the rule requiring local residents living within a radius of 5km of a registered club to become a member to attend the club
- No longer placing as a 'standard condition' on temporary outdoor dining approvals for licensed premises that require patrons to only consume liquor when seated
- Overriding conditions of development consent that prohibit live entertainment in a Special Entertainment Precinct (SEP)
- Requiring that councils notify neighbouring residents and businesses of a Special Entertainment Precinct by a notice published on its website and a notation on planning certificates
- SEP Support Hub for councils launched online, with Guidelines, an Acoustic Toolkit, Handbook and templates
- Streamlined pathway for declaring a major event so recurring events of state significance can be more easily supported
- Cultural State Environmental Planning Policy (SEPP) Explanation of Intended Effect on public exhibition
- Consultation on the mutual recognition of mobile outdoor businesses across local government areas
- Entertainment sound guidelines published on system design and acoustic sound management for venues and councils

Council staff have provided feedback to the NSW Government on the mutual recognition of mobile outdoor businesses across local government areas. Staff are supportive of the concept of removing the requirement for mobile food vendors to obtain approvals across multiple LGAs but have raised concerns with the lack of information around the application and assessment process and how Council's local

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controls will be applied and enforced. Concern about potential impact on local businesses was also raised.

During the first quarter of 2025, the following reforms will take effect:

- 'Switching off' conditions of development consent or plans of management at all licensed premises that prohibit particular music genres, the number or types of instruments, the number of musicians, the playing of original music, whether dancing occurs, the presence of a dancefloor, the direction a stage faces or use of decorations (e.g. mirror balls)
- 'Switching off' conditions of development consent or plans of management that prohibit 'live entertainment' at hotels, clubs and small bars (only)
- Changes to enable automatic notation on planning certificates about whether a property is in a Special Entertainment Precinct

Council does not impose conditions of development which prohibit particular music genres etc. and as such this tranche of reforms will have very little bearing on the Kiama LGA.

During the second quarter of 2025, the following reforms will take effect:

- Referral pathway to mediation for significant live music or performance venues involved in a dispute
- Development of regulations and guidance material for mutual recognition of mobile outdoor businesses across local government areas

### **Special Entertainment Precinct (SEP)**

As part of the ordinary 16 July 2024 (24/238OC) Council meeting, Council resolved to support a community led petition to the NSW Legislative Council which called on the Hon John Graham MLC, Minister for the Night-time Economy, to support the development of a Special Entertainment Precinct (SEP).

In late 2022 the NSW Department of Planning, Housing and Infrastructure (DPHI) (then the Department of Planning and Environment) announced a new planning mechanism known as a 'Special Entertainment Precinct' (SEP), alongside the trial of a SEP on Enmore Road within the Inner West Council Local Government Area (LGA).

A short extract from the NSW Government, enshrined in section 202 of the Local Government Act is provided below:

*A special entertainment precinct is a defined area where sound from premises with amplified music is managed by a council through its noise management plan. This lets councils more easily support live music and performance in the precinct.*

The purpose of a Special Entertainment Precinct (SEP) is to balance entertainment sound compliance with the needs of businesses and residents. It aims to foster and encourage both new and existing businesses to host live entertainment, support the arts and live music sector, and enhance the vibrancy of local centres. By doing so, SEPs effectively protect and assist existing venues, future-proof emerging precincts, and support major festivals and event programs.

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This is achieved by:

- Specific sound limits for entertainment venues within the precinct.
- Extended trading hours, allowing businesses an extra hour of operation.
- Outdoor dining permitted until 11 pm.
- New developments, such as residential flat buildings, required to incorporate soundproofing against entertainment noise.

As per the Local Government Act, once established, a Special Entertainment Precinct will switch off conditions of development consent if they are inconsistent with council's noise management plan for the precinct. These will apply to trading hours and noise from amplified music.

For example, if a condition of development consent sets the trading hours as 10am to 10pm and the council's plan allows trading to be 10am to 12midnight, the condition of consent (to the extent of the inconsistency) ceases to have effect.

Councils must also notify residents and people moving into the area about the precinct. This could be done on a council website or a notation on planning certificates for land in the precinct.

To establish a SEP, Council would be required to undertake acoustic modeling and prepare a Precinct Management Plan to govern the operation of 'entertainment premises' within the Precinct. As part of the Enmore trail, the responsibility for managing compliance with the Management Plan, including noise complaints, remained with Inner West Council.

It is noted that at present Council's planning instruments/controls do not restrict hours of operation and Development Applications are assessed on their merits and against the hours applied for.

A SEP's Management Plan only applies to licensed 'entertainment premises' and not temporary outdoor events.

### **SEP Kickstart Grant Program**

In November 2024, the SEP Kickstart Grant Program was opened by Create NSW. The purpose of the Program is to encourage local councils to take up and implement SEPs.

This grant has been designed to meet the costs of Councils in developing a SEP with funding between \$50,000 and \$200,000 available.

The grant program can apply funds to:

- Labour expenditure for temporary employment for the new SEP/s
- External or third-party costs, such as:
  - Acoustic specialists to prepare the sound management framework
  - Strategic planning consultants to prepare internal reporting and maps, lodgement of planning proposal, draft DCP provisions, and/or draft precinct management plan

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- Community engagement consultants to develop consultation strategies and undertake engagement activities (such as letterbox drops or drop-in sessions)
  - Costs associated with marketing and communication of the SEP/s prior to the trial period being approved.

Funded activities must be completed 6 months after the funding agreements have been signed and no later than 31 December 2025. Funding activities required to be completed by 31 December 2025 include the submission of a Planning Proposal, to amend the *Kiama Local Environmental Plan (LEP) 2011*, the Department of Planning, Housing and Infrastructure for a Gateway Determination. This would mean that a Planning Proposal would need to be supported by Council no later than their ordinary December 2025 meeting.

### Eligibility

In order to be eligible to apply for this grant program the following needs to be provided to Create NSW:

- (a) A copy of a Council resolution to establish the SEP/s, including a specific location, map and boundary for the SEP/s; and.
- (b) A copy of Council's:
  - i. Night-Time Economy Strategy; or
  - ii. Another strategy document or strategic planning statement in which the night-time economy is identified as a priority, pillar or key action; or
  - iii. A resolution to prepare a night-time economy strategy and have other demonstrated strategic context including a visitor economy strategy or plan or economic development strategy or plan.

At this point, Council is ineligible to apply for the grant programs for the following reasons:

1. Council has not resolved to establish a SEP and has not prepared a specific location, map or boundary for the SEP, and
2. Council has not adopted a Night-Time Economy Strategy.

### Conclusion

It is recommended that Council resolve to amend its existing Tourism and Events Strategic Plan with a view to convert it into a Visitor Economy Strategy, incorporating the relevant findings/recommendations of:

- a. Kiama Major Events Impact Review and Recommendations Report
- b. Kiama Regional Economic Development Strategy
- c. Tourism & Events Service Review

Council's Tourism & Events Team have commenced an initial review of the Tourism and Events Strategic Plan. An updated Visitor Economy Strategy would encompass:

- major events,

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- accommodation needs,
- marketable experiences, and
- mechanisms to support entertainment etc

It is also recommended that Council's Tourism & Events Team collaborate with the community led Kiama Special Entertainment Precinct working group to identify an appropriate SEP boundary.

With applications for the grant program closing on 12 March 2025, it is recommended that a report be provided to Council's Ordinary February 2025 to endorse the establishment of a Kiama SEP.