

Submission re Fun SEPP

Regarding the proposal to:

“make permanent the trial that allow pubs and small bars to have outdoor dining on the footpath as exempt development”

I have serious concerns about this proposal and object to its adoption on the following bases:

- Any results from the outdoor dining trial for pubs and small bars runs from 16 October 2020 until 31 October 2021 that too place in The Rocks area of Sydney are not automatically applicable to areas with different residential to commercial use mixes. The Rocks is not an area with a high permanent residential population. It is high likely that applying this policy to other areas will result in more noise disturbance to permanent and pre-existing residents than may have been encountered in this extremely limited scale trial. Making regulatory decisions based on such a limited small scale trial seems cavalier and probably driven by preconceived ideas and agendas.
- It appears that inadequate consideration has been given to the negative impacts that could reasonably be expected to occur, particularly in the way of noise disturbance to residents, as a result of this proposal. The *“Fun SEPP”* document mentions positive aspects of the trial:

“The trial has run smoothly. Businesses have benefited from increased turnover and the community has enjoyed new outdoor dining areas.”

- It makes no comment of negative outcomes and appears to have completely forgotten the existence of residences in close proximity to the proposed outdoor dining venues in many locations.
- No justification has been given as to why permanent changes need to be made to provide temporary assistance to the recovery of the entertainment and alcohol industries. A temporary extension of provisions would be more appropriate than a permanent change.
- Footpaths are public thoroughfares and the encroachment of licensed premises onto these public spaces represents inappropriate provision of public goods to private enterprise for that enterprises financial benefit. It also represents a loss of amenity for pedestrians and carries high-risk of leading to conflict by different users. Such widespread consumption of alcohol in such visible outdoor spaces will expose children to the negative behavioural outcomes of human alcohol consumption and only lead to further normalisation of alcohol consumption in a nation which already suffers significant societal and health impacts from alcohol use.
- I am concerned about flow on effects from the extension of licensed areas to include footpaths. This puts public space under the control of licensees. I have personal experience of a hotel in Newcastle that originally operated out of building on the harbor waterfront with a public wharf extending in front of it. Because people used to buy drinks from the hotel and then walk out onto the public wharf to drink there was a push by the police to have the licensed area extended to include the wharf. This had the unintended consequence of putting the outside wharf area under the control of the licensee. Over time, there was gradual creep on the activities that occurred on the outside wharf to the point that now it operates essentially as an outdoor nightclub/music venue (these operations used to occur inside without impact on surrounding occupants) and contaminates a large area (extending all the way to the other side of the harbour) with noise disturbance from its operations. It

also creates conflict as a pedestrian thoroughfare runs through the licensed area between the wharf and the hotel building and, although a narrow strip of the wharf remains public land I have had the licensee try to kick me off this strip of public space claiming that it is his license area and he had the right to evict people from the area.

Regarding the proposal to:

“create a complying development pathway to allow a change of use of retail premises to small live music or arts venues, including developments standards and variations to the Building Code of Australia”

- I am opposed to this proposal in its current form. I am concerned that little to no consideration appears to have been paid to the noise impacts that are likely to occur on surrounding properties beyond excluding “building or production activities, such as wood or metal cutting, that require fixed machinery.” Many small retail spaces are adjacent or in close proximity to residential property and music performances in these venues have a high likelihood of causing particularly night-time noise disturbance on nearby residents which would not have been an issue under pre-existing retail uses. This change would seem to remove all pre-emptive rights of surrounding residents to raise legitimate concerns during a normal planning process and result in them then having to lodge complaints and suffer a prolonged and often ineffectual process of seeking relief from the repeated noise-disturbance which has substantial negative impacts on their quality of life and mental health.

With regard to the proposal to:

“make some of the COVID-19 emergency measures for food trucks and dark kitchens permanent.”

- I am opposed to this proposal. *“Allowing food trucks to operate on any land, at any time, subject to land owners’ consent”* and *“increasing the hours a food truck can operate”* *“on land adjoining a residential zone”* has too much potential to cause noise disturbance to pre-existing permanent residents. Again, no consideration appears to have been given to likely noise disturbance issues.
- No justification has been given as to why permanent changes need to be made to provide temporary assistance to the recovery of the entertainment and alcohol industries. A temporary extension of provisions would be more appropriate than a permanent change.

With regard to the proposal to:

“clarify the exempt development standards for temporary private and community events” as it relates to events on private property by way of the following:

- *“limiting events on private land to 2 days in a 12-month period whether consecutive or not consecutive*
- *limiting hours of operation to between 7 am and 10 pm”*
- I am supportive of these limitations.

With regard to the proposal relating to:

“Major events sites — additional temporary development” and the proposed increase in the number of consecutive days and total days per calendar year.

- If this applies to only the listed sites - *“The Rocks, Darling Harbour, Barangaroo and Sydney Olympic Park”*, then I have no objection, however if it is intended potentially to applying to other public land around the state then I do object as this would be unreasonably burdensome in its impacts on surrounding residents.