

Submission in response to the proposed 'FUN SEPP'

We understand the changes are intended to support the night-time economy, and creative sector and fast-track applications with view to:

- Enabling temporary private events as well as community and council events as exempt development;
- Extending the number of days for filming as exempt development;
- Enabling retail shopfronts to be used for live music and/or art venues with changes to the BCA;
- Enabling changes in use as code complying development for artisan food & drink, and allowing the premises to be larger;
- Enabling outdoor dining; and
- Allowing temporary measures introduced during Covid permanent, e.g. for food trucks and dark kitchens.

The proposal in its current form is NOT supported given the impact it will have on many local streets that are primarily residential streets zoned MIXED use – which are not intended as High Streets or as a Local Centre or Commercial Zone. Our feedback follows.

SUBMISSION

To understand local concerns, it's relevant to understand Chippendale per se, and some of its inherent challenges.

Today, Chippendale has a population of ~10,000 residents today, a threefold increase in little more than a decade, with parts of Chippendale having a density of more than 500 residents per ha; one of the highest densities in Australia.

Inherent challenges are the little open space, and some of the Sydney's most heavily trafficked roads, which surround the suburb and cut into two.

The suburb also has a high Liquor License density of 2.03¹ compared 1.64 for Potts Point, 1.15 for Pyrmont and Barangaroo 1.77, with academic research highlighting the inherent links between license venue density and crime.

The suburb has a large retail Mall, cinemas, and entertainment area, centred at Central Park/Kensington Street.

¹ As at October 2021, 71 premises have liquor licences, in an area of 35 ha (taking out the Sydney Railway Yards).

The 2016 Census also highlights Chippendale's very high transient population and low average incomes with nearly 50% of its population experiencing housing stress.

Hence the proposal in its current form is **not supported**, as wholesale changes to the Codes SEPP, will invariably be problematic for many streets in Chippendale that are traditionally quiet residential neighbourhoods in the Heritage Conservation area, where commercial premises and the odd shopfront are intercepted between homes.

Moreover the changes are contrary to the 'agent of change' principle, where the changes adversely impact longstanding residential communities, where there is little or no setback between properties, with properties typically having common walls, and there are inadequate provisions to address inherent challenges in terms of amenity.

While a number of streets in other suburbs on the city's edge are also zoned Mixed-Use, Chippendale differs, in that the suburb has been able to retain its key residential streets that are zoned mixed use, whereas other suburbs where streets were primarily residential and zoned mixed use, have seen the streets change, where low rise streets are now more often commercial or retail use.

Similarly to Chelsea in NY, where residential streets are distinct from more active streets, Chippendale's entertainment precinct is largely separate to residential streets, i.e. Kensington Street and streets where there is primarily commercial activity.

Importantly too, even in the case of Kensington Street there are some potential challenges with the proposed changes, given newer residential apartment blocks are immediately adjacent to the street, with see residents potentially impacted by more wholesale changes.

Consequently, any change to the Code SEPP and exempt development would have a major impact on the local amenity, particularly those streets that are primarily low rise heritage streets, where residential homes built over 100 years ago are not purpose built to respond to proposed changes that seek to encourage creative uses, music venues and after hour activities; e.g. Dick, Teggs, Little Queen and Queen, Meagher (west from Dale), Bartley, Levy, Smithers, Wellington and O'Connor.

Consequently any changes need to be considered in terms of improving residential amenity rather than adversely impacting amenity.

Hence the proposed FUN SEPP is not supported. Instead, the proposal should be amended to limit the introduction to MIXED use zones that are well defined new precincts, or more specifically designated Local Centres or Commercial Areas, with the need for any changes in use to go through the more traditional DA process to enable feedback from residents who live in streets zoned Mixed Use.

In addition we have concerns about the changes proposed to open space as event space.

Our general concerns follow -

- Earlier this year we provided feedback in response to the Codes SEPP and employment zone review. However it appears that some of issues we raised were not considered. Consequently we would like to meet with the Department so the nuances for Chippendale are better understood, with view to the department addressing local concerns.
- As indicated, Chippendale differs from most suburbs in close proximity to Sydney's CBD. This is because many of the streets zoned mixed-use zones are largely long-standing residential streets, with commercial/NFP/shopfronts dispersed between our homes, where noise and amenity challenges are more prevalent. To better illustrate, ee Annexure A.
- Previously the retention of homes for residential use (with 25% SOHO allowed) in mixed use zones in Chippendale was protected. However, changes to the City's planning controls in 2021 removed these protections. Importantly at the time, and since, we were assured by the Department and also Council that the introduction of 'creative' premises would be largely restricted to Kensington Street and key arterial roads.

While we understand the government's push to free up controls, the current proposal puts residents at loggerheads with the creative sector and music industry.

- The threefold population increase in recent years makes any change in use, and the introduction of events on open space and private land more sensitive.
- The changes are also further exacerbated due to Chippendale's typography, and its historic street grid, particularly in the east and mid precincts where noise and sound reverberation is more pronounced due to varying cubic form and historic street grids.

This is particularly relevant for a large part of Chippendale's heritage conservation area, where there are a number of larger buildings and varying cubic form intercepted between residential homes.

- Moreover the lack of setback, and the interplay between residential properties, shopfronts and commercial premises without any acoustic treatments, makes the challenge more profound. Likewise the absence of gardens and open space to help noise and even smells/fumes to partially dissipate. Similarly many properties don't have cavity walls, and are not underpinned, with noise penetration more prevalent. This includes noise penetration through the sub-strata.

This is particularly relevant where there would be say a live music or arts event in say a neighbouring property, which could accommodate up to 300 patrons.

- While an event may at first glance appear to be low key, even smaller events for 30 – 75+ people in a small shopfront or commercial property next to a residential property can adversely impact neighbouring properties. More so, when events are back to back, or there is a number of events in an area that has a small street grid, the cumulative impact needs to be properly understood.
- Historically the operation of businesses/commercial use alongside a residential home saw more traditional business hours. Consequently, the interplay between commercial and residential activities was more manageable. However the changes that are now being proposed, and the desire for a night time economy if not well carefully managed has the potential to threaten the very essence of what makes Chippendale unique; particularly when the changes are considered cumulatively, and the impact on residential amenity.
- Other concerns include changes that enable events and filming as exempt development. This is because Chippendale has little open space, and the use of Crown land etc for markets or the like would further impede amenity.
- Moreover, Chippendale has one of the highest population densities in Australia following a threefold increase in recent years. Yet the open space provision is now less than 1 square metre per resident despite the introduction of Chippendale Green as part of Central Park.

Notably too, the initial number of residents living at Central Park (as a precinct) was increased from ~ 2,500 ppl in the initial concept plan to more than 5,000, without increasing the open space to offset the population increase (the only increase is part of the commercial part of the Mall which is typically used for events).

Hence the use of Chippendale Green and other local parks for events or the increase in day for filming as exempt development is not supported, given residents rely on very little open space we have. Further there are already inherent challenges in terms of filming, and the influx of external visitors and high level of students who rely on Chippendale Green as an extension of the UTS and Notre Dame campuses.

Further, thousands of purpose built student rooms have been built in recent years (pre-Covid). However, a number of buildings do not meet the minimum sunlight² provisions, nor

² Building 4 North at Central Park was originally intended as a commercial building. The approval was subsequently changed to allow student accommodation, housing ~ 880 residents. Consequently less than 50% of the rooms meet the minimal sunlight provision, despite allow the hours to be extended from 7 am to 5pm rather than between 9am to 3pm.

have balconies as open space, Instead residents rely on 'Chippendale Green' for their open space. Hence the use for events is sensitive.

Likewise, there is insufficient on-street parking with the removal of parking spots a key concern. This is particularly relevant when a film crew is on location, with the little parking we have impeded and often local movement and use of open space restricted. Similarly, the permanent introduction of dark kitchens and food trucks is NOT supported.

- The absence of being able to provide feedback via the traditional DA process. The DA process enables feedback from those impacted, with consent conditions able to be fine-tuned. Consequently expanding the Code has prompted concerns, with residents worried that over time the cumulative impact will see residents effectively pushed out of the area, particularly those living in non-purpose built low rise heritage homes. In turn, this would destroy the essence of what makes Chippendale unique.
- The absence of technical reports as part of the consultation process has prompted concerns.
- No consultation with our local community, other than the public exhibition process which we only became aware of, after the submissions were extended last week.

Consequently, we are seeking the opportunity to urgently discuss our concerns with you.

[REDACTED]

Annexure A



A small, narrow, quiet street, with no setback from the street or between properties. Most buildings have common walls, and a number of properties no gardens or rear setback. The street is largely pedestrianised with on- street parking limited to four vehicles, cars. Garbage trucks are often unable to get through, with weekly pickups missed.

Most homes are bookended by taller commercial buildings (from a neighbouring street) with the depth of a number of properties relatively small given the smaller historic street grid, thereby increasing noise reverberation. Larger buildings bookend both ends of Dick Street, with noise reverberation a key challenge, event when small events are held.

Live music events or the like in this street, has the potential to have a major impact on the street amenity and immediate residential homes, particularly after hours. The number of buildings and capacity for different tenancies would also see the potential for a significant cumulative impact. Hence, extending the Code SEPP to enable events and any change in use is particularly sensitive.



Bartley Street and the southern end of Balfour, effectively makes local residential neighbourhood with its well-known vista to Strickland House, a nationally recognised heritage property with shopfronts underneath public housing. Bartley Street consists of 11 homes and two commercial properties as well as a small park on the corner with Balfour. In addition are say ~ 40 apartments in Strickland House that open onto Balfour Street south. While, the number of commercial properties is small, any changes in use can be particularly sensitive particularly if the use is for live music or creative performances, after hours and the like.

For example No 10 Bartley (i.e. the grey building shown above) is the only commercial terrace in between six historic properties on the north side of the street. Yet its use in the past as a gallery has had a major impact on residential amenity, i.e. for homes in Bartley, Balfour (south) and Meagher Streets.

With the property extending through to Bartley Lane, at the rear are two buildings that have a much higher cubic form. Both are residential apartment blocks, one with open space underneath that opens through to Meagher Street (the former Metro hotel, which is

now a studio apartment building) and the other which form, acts as a wall in terms of noise reverberation.

In response, specific consent conditions were introduced, when a DA for a small gallery space was permitted on the ground floor. Yet despite its use as a gallery after hours being restricted to a number of days a year, the experience illustrated how challenging the change in use can be, with considerable noise impact, and challenges such as fumes (food/fumes from industrial activities) and vibration challenges between adjoining properties, as well as the general noise reverberation impacting a much wider area.

Sound would travel between properties through the common walls even when there were small patron numbers (20 people) as well as through the substrata. With exhibitions changing regularly, the use of drills and the like for new exhibitions would be problematic. In addition noise would bounce off one of the buildings at the rear, travelling directly back into adjacent homes, while also travelling underneath the building at the rear (former Metro hotel) though the open space impacting homes in Meagher Street. In addition, the crowd size will spill over onto the street and adjoining open space, despite restrictions.

Events would see more than 150 to 200 people outside the property, spilling over to the front and rear, and restricting movement into adjacent homes, with the overflow also to the park. Moreover, council rangers could not take action (due to the use of alcohol) and the Police unable to respond due to the lack of sufficient resources and more pressing priorities with consent conditions simply ignored. Consequently enabling live music and creative events in premises and shopfronts in the middle of residential neighbourhoods is fraught with challenges.

Likewise 'unofficial' events in Council's park, has impacted local homes with noise reverberation particularly sensitive after hours, when the background noise level is quiet; and noise reverberation bounces off two higher rise buildings to the rear of the park, which bookend a small row of terrace homes.

Likewise the small shopfront at the western end of Bartley Street (at the corner with Abercrombie) has seen hundreds of people attend a 'creative' event, where the lower floor of the premises only has the capacity for say 20 people. Consequently, hundreds of people have spilled over into Bartley Street, with patrons sitting in the gutters and surrounds. With a bottle shop directly opposite, this has seen people linger, with noise reverberation 'up' the street as a result of the typography and surrounding cubic form.

Note: A nearby venue in Abercrombie Street that regularly has bands and outdoor events will see noise reverberation impact properties more than 130 metres away, as a consequence of noise bouncing off the adjacent higher rise building as well as through the substrata (e.g. for more than 8 hours last Saturday).