



Our reference: InfoStore

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18 November 2021

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[Sent by – Online submission]

Proposed amendments to State Environmental Planning Policy – Exempt and Complying Development Codes 2008 – “The Fun SEPP”

Thank you for the opportunity to comment on the Explanation of Intended Effect (EIE) that has been prepared to provide details on the proposed amendments to *State Environmental Planning Policy – Exempt and Complying Development Codes 2008*. Given the short timeframe to provide a submission, we have not had the opportunity to report to Council, which is our standard practice, therefore these comments are provided without endorsement from Council.

On review of the exhibited EIE by Council officers, we support majority of the proposed amendments and their overall intention to support small businesses recover from the impacts of COVID-19 and deliver a 24-hour economy. We have also consulted with the Penrith CBD Corporation and the St Marys Town Centre Corporation who are also supportive of the proposed amendments.

However, we feel that some of the amendments do not go far enough to include appropriate provisions for development standards that align with our current development controls and internal processes, and therefore have some concerns which are addressed in our submission table below.

Please find attached our submission table with our concerns and proposed amendments for your consideration.

We appreciate the opportunity to provide feedback in relation to this matter. If you have any further questions on Council’s submission, please contact [REDACTED]

[REDACTED] or
[REDACTED]

Yours sincerely

[REDACTED]
[REDACTED]
[REDACTED]

PROPOSAL	COUNCIL'S COMMENTS
<p>Outdoor dining</p> <ul style="list-style-type: none"> • Pubs and small bars will be able to provide Outdoor dining on the footpath or public open space as exempt development. • The clause in the Codes SEPP that restricts bars and pubs from using exempt development for outdoor dining will be removed (Part 2, Subdivision 20A cl2. 40B (1) aa). The change will apply state-wide • Outdoor dining on Crown land must comply with the arrangements of the land's Plan of Management, whether managed by a council, or under a lease or licence issued under the Crown Land Management Act 2016 	<ul style="list-style-type: none"> • Council is supportive of the proposed amendment to allow pubs and small bars to provide outdoor dining on the footpath or public open space as exempt development provided that all food is prepared in the kitchen located inside the premises and not outside.
<p>Small live music or art venues</p> <ul style="list-style-type: none"> • Complying development pathway for small live music and arts venues to be treated as a Class 6 building (such as a shop, café or restaurant) instead of a Class 9b building (public assembly building). • This pathway will allow these venues to commonly hold performances as part of their regular business without needing to upgrade their premises. • To be defined as one of these new venues under the BCA, the premises will need to meet certain criteria including maximum floor area, operating times, maximum occupancy limit, storey location etc. 	<ul style="list-style-type: none"> • Council is supportive of the proposed amendment overall as it aligns with our Night Time Economy Strategy. • We have concerns with allowing up to 300 patrons under the complying development pathway as the EIE has not identified criteria to convert small music venues to the same acoustic standard as a shop in comparison. • We recommend adequate acoustic management criteria be developed to ensure live music venues in former shop and retail premises are abated to an appropriate standard for both dB and hz bass frequency.
<p>Artisan food and drink industry</p> <ul style="list-style-type: none"> • Introduce a complying development pathway to allow a change of use of premises to artisan food and drink industry in certain circumstances, including development standards. • Artisan food and drink industry will be permissible wherever 'light industry' is permissible under Penrith LEP 2010. This includes zones B5, B6, B7, IN1 and IN2. 	<ul style="list-style-type: none"> • Council is overall supportive of the proposed complying development pathway to allow artisan food and drink industry as a change of use of premises from an existing light industry. • Parking provisions have not been identified in the EIE for artisan food and drinking industry development. In the past, parking has been a major factor under our current development assessment process for both development types, particularly for those in CBD or high traffic locations. • We recommend including provisions for parking within the SEPP to align with our DCP. • We also suggest ensuring compliance with AS4764-2004 Construction and Fit Out of Commercial Food Premises and in

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	<p>addition, recommend premises should be registered with the local enforcement agencies.</p>
<p>Dark kitchens</p> <ul style="list-style-type: none"> The current temporary measures in place in the SEPP that allow dark kitchens to be established in an existing commercial kitchen as exempt development are proposed to be made permanent. 	<ul style="list-style-type: none"> The definition of 'dark kitchens' is very similar to the definition for a 'take away food and drink premises' and we recommend revision of this definition to allow a clear interpretation of the difference between the two land uses. We request clarification to be provided surrounding the hours of operation for dark kitchens. We suggest public notification of dark kitchens to ensure their location is visible to the public.
<p>Food trucks</p> <ul style="list-style-type: none"> The current temporary measures in place in the SEPP that allow food trucks to operate on any land at any time if certain requirements are met, are proposed to be continued. It is proposed to provide some additional flexibility on land adjoining a residential zone, by increasing the hours a food truck can operate there. 	<ul style="list-style-type: none"> We support the proposal to continue the temporary measures in the SEPP to allow food trucks to operate as exempt development. We recommend that a maximum curfew of 10pm is required for all food trucks, particularly for those operating on land adjacent to a residential zone to ensure noise impacts to neighbouring properties are minimal.
<p>Temporary events</p> <ul style="list-style-type: none"> A new definition for a 'Temporary Event' will be added to the SEPP. This will provide a pathway for temporary events on council owned and managed land and temporary events on private land. A temporary event, whether a community event or a private function, can be held on council owned and managed land without the need for a separate planning approval. 	<ul style="list-style-type: none"> The proposed provision to allow up to 300 people at events held on private land as exempt development is of concern due to Council being unable to effectively monitor and facilitate the approval process. We recommend a maximum of 100 people for temporary events on private land through the exempt development pathway and an event allowing up to 300 people be instead included within a complying development pathway to allow Council the ability to control the approval process. We are concerned that there aren't provisions within the SEPP for parking at temporary events. This has been a major concern in the past when assessing Development Applications for these events. We recommend parking provisions be incorporated into the SEPP or alternatively include a provision that allows Council as the consent authority to enforce parking requirements throughout our internal approval process. We also recommend that there is a requirement within the SEPP for all events to be registered with local police authorities.
<p>Filming</p> <ul style="list-style-type: none"> Extend the number of days for filming from 30 days to 'unlimited' as exempt development 	<ul style="list-style-type: none"> We are generally supportive of this amendment as we currently control these applications through an internal application process.



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	<ul style="list-style-type: none">• The proposed five days' notice requirement to be provided to the consent authority for Filming is not sufficient. Various factors including potential disruption to neighbouring properties, parking requirements and noise impacts will all need to be considered prior to approving a film management plan and the five days' notice will not allow time to assess all risk factors associated with these applications, particularly if the filming period would be 'unlimited'.• We recommend a minimum of 21 days' notice be provided to Council for all filming applications.