



18 November 2021

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Draft Fun SEPP

I refer to the draft Fun SEPP and offer the following comments.

- *A proposed complying development pathways and food safety:*
 - Any changes must allow for councils to ensure that the AS4674 standards are being met, whilst this should generally not be a problem Council has limited capacity in ensure compliance. Measures need to be in place to ensure that Council is still able to register and regularly inspect temporary/'dark kitchen' premises.
- *Make permanent the trial that allow pubs and small bars to have outdoor dining on the footpath as exempt development and seek feedback on proposals to:*
 - Bathurst Regional Council currently allows footpath dining as exempt development rather than requiring a Development Application. The reforms are silent on the impact on Section 125 of the Roads Act (use of roads for food and drink premises). This includes annual approvals of on street dining areas, payment of usage fees, maintaining public access and the maintaining public liability insurance. Council considers that the maintaining these requirements should remain notwithstanding any changes to the Codes SEPP.
 - The inclusion of pubs and small bars operating on the footpath would need to ensure that a copy of the liquor licence approved by Liquor and Gaming is provided to Council (along with relevant insurance). The licences would need to explicitly extend to the footpath, otherwise a notation must be provided not to allow alcohol on public land i.e. council footpath.
 - Council would need to be able to refuse such activities in public areas (E.g. parks and footpaths) already designated as alcohol free zones.
 - In circumstances where the outdoor areas are associated with a pub it should generally be confined to where it also involves the serving of meals as opposed to purely alcohol. Similarly, there should be an overriding need to ensure that public access "through" the areas is maintained in a way that

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prioritises the movements of pedestrians in a manner that reflects the fact these areas are fundamentally public areas.

- *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*
 - Council is concerned about noise generation and how that will be assessed and possible increases in noise complaint issues. This would particularly be the case where residential areas are located in close proximity and also where residential (shop top) housing might exist.
 - Food for sale could be part of these live music and arts venues- and accordingly, food premises would need to meet the standards. A complying development pathway may limit Council's ability to ensure compliance as AS4674 does not automatically form part of the consideration of the BCA/NCC.
- *Create a complying development pathway to allow a change of use of premises to artisan food and drink industry in certain circumstances, including development standards*
 - Same as above in regard to the complying development pathway.
 - Increasing food and drink patron numbers from 50- 100 in neighbourhood and local centres, may exceed the ability of existing premises to safely store and prepare food.
 - Artisan food and drink premises have the potential to be a significantly higher generator of parking demand than light industry.
- *Make some of the COVID-19 emergency measures for food trucks and dark kitchens permanent.*
 - Dark kitchens- prepare/cook food for sale solely for delivery. It would only be appropriate to continue to allow these dark kitchens to operate, with an existing commercial kitchen.
 - Location and operation hours of these premises would need to be clear to allow for registration and inspections.
 - Mobile food vans/temporary food structures operating on private residential land would create barriers for inspecting e.g. powers of entry. Operating restrictions need to be in place so as not to impact fixed premises.
 - Food trucks must continue to comply with any parking regulations. Events (e.g. music festival) and food trucks should not occupy Council car parking without consideration to the overall parking demand/supply (i.e. holding the festival on an evening might not impact it but holding the festival on a Saturday lunchtime would impact on retailers if access to car parking becomes an issue).

- *Clarify the exempt development standards for temporary private and community events*
 - A similar process to obtaining a section 68 approval would be preferred to monitor the food safety of events. For the moment if an event is held on land other than public land a notification form is required. This would be to monitor the fit-out requirements as well as any additional requirements that would have been missed in the notification stage e.g. home based business approval from the home Council.
 - Consideration should be given to allow events on private land in some rural zones as exempt.

Council thanks you for the opportunity to provide comments in relation to this matter and seeks further consultation with the Department before a new SEPP is introduced.

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