



23 November 2021

Codes@planning.nsw.gov.au
Codes Policy Team
Department of Planning Industry & Environment

Dear Codes Policy Team

RE: Draft Fun SEPP

Thank you for the opportunity to comment on the draft Fun SEPP. Council's current policies seek to support business development, particularly given the recent difficulties faced by many businesses in adapting to current conditions and social distancing requirements.

In particular, there have been significant impacts on hospitality businesses over the course of 2020 and 2021 as a result of the COVID-19 pandemic. In response, Council has assisted venues by waiving outdoor dining applications fees to 30 June 2022, providing an online lodgement process, and reducing the public liability insurance required for hospitality venues to \$10 million.

At present Council is seeking to support the hospitality industry by temporarily enabling extended trading hours in alfresco areas. Council will work closely with NSW Police Sutherland Local Command to minimise amenity impacts. The Sutherland Shire has many small shops (2-3 shops) surrounded by low density suburban residential dwellings. The expectation of residential amenity in these areas is high. Similarly, in the town centres, there is considerable 'shop top' housing.

Accordingly Council is temporarily relaxing the enforcement of development consent conditions. Alfresco areas may commence as currently permitted for the whole of the venue and extend to the permitted hours of operation for the whole of the venue, or 11:30pm whichever is earlier. The alfresco areas must also not restrict any vehicular or pedestrian access to or from, or entry to a building. Should there be adverse amenity impacts, appropriate action can be taken. This flexible approach allows Council to tailor enforcement action to local conditions.

The draft SEPP seeks to allow small live music or arts venues as complying development, outdoor dining for pubs and small bars as exempt development, and continue to allow food trucks on any land as exempt development. Council's B1, B2, and B3 zones all allow mixed use (dwelling) development. Many premises are in close proximity (or below) residential dwellings. It is important that such uses do not create amenity impacts for nearby residents. Noise complaints will inevitably be directed to Council, creating a compliance burden for ratepayers.

I note the SEPP 'building, fire, safety and amenity development standards' (EIE pg 9) have not yet been drafted. Such must be comprehensive and effective. At present, uses with potential amenity impacts are assessed as part of the development application process. Applicants must submit a Management Plan detailing how noise and operational activities

(such as loading and waste collection) will not cause adverse impacts, the safety and security of the area is protected, and appropriate management measures that will be taken. Council's SSDCP2015 – *Chapter 37 Late Night Trading and 2020 Late Night Trading Environmental Specification* details the requirements for Management Plans. It is considered that at a minimum this type of plan should be required as part of the proposed SEPP amendment. Operational hours in proximity to residential dwellings should be limited, with some potential for extended operations should Management Plans be effective.

While the COVID provisions allowed such development temporarily, this was not a true test of their impacts. Many licensed premises and businesses did not adapt to outdoor dining, nor were food trucks widely prevalent in the Shire (approximately 3 operated). Furthermore patronage was limited - many residents took a precautionary approach by staying home. Similarly, the impacts of expanding exempt live music or arts venues are unknown, as such have not been open until recently. The provisions should seek to have minimum standards that must be met that ensure the amenity of surrounding areas is preserved.

The draft Fun SEPP also proposes to make events (whether a community event or private functions) on council land without the need for planning approval, provided a S.68 approval is obtained. Council already supports community events through the exempt provisions of SSLEP2015 Schedule 2: <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2015-0319#sch.2> Similar provisions could be considered by the SSEPP. Councils would also benefit from guidelines that support the S.68 approvals process.

Council's experience with filming has been positive. The Shire is an attractive place for filming and such has not been a problem.

The draft provisions also seek to allow light industry to change to 'artisan food and drink industry' as complying development. While supporting local manufacturing is a priority of Council, these premises inevitably turn into a 'shop' and café – which is inconsistent with objectives of the industrial zones and often inconsistent with adjacent industrial operations and nearby residential premises (the proposed 10pm operations can impact nearby amenity). The provisions also suggest the artisan food and drink industry will be limited to council's Local Environmental Plan. Limiting such to the current SSLEP2015 (Cl.5.4) limits (10% of GFA or 100sq.m.) is supported as this will ensure that the predominant use is in fact industrial. Difficulties in ensuring such premises comply with the provisions is likely to add to Council's compliance burden.

The draft Fun SEPP exhibition period did not allow the elected Councillors to formally consider the matter at a Council meeting. Consequently this submission has been prepared by staff in the interim and authorised by a committee of Councillors. A formally endorsed submission will be provided following the next available Council meeting in 2022.

Should you require any further information please contact [REDACTED]

Yours sincerely,

[REDACTED]

[REDACTED]