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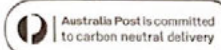
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ATTENTION:

Director Codes Planning and Assessment  
Department of Industry Planning and Environment  
Locked Bag 5022  
Parramatta 2124

Submission from:

## SUBMISSION PROPOSED AMENDMENTS –FUN SEPP (Filming)

### I STRONGLY REJECT THE PROPOSAL

This submission refers specifically to the proposed **FUN SEPP** amendments by the NSW government in relation to **SCREEN FILMING** in NSW.

Screen Filming is not a low impact activity and therefore does not qualify as an **EXEMPT DEVELOPMENT**. This should therefore end all discussion concerning development exemptions for film companies.

The Department states, *"The Codes SEPP's current exempt measures support filming for up to 30 days a year on private property. This suits short term projects such as commercials and location shots where activity and temporary disruption can be managed and minimised."* The statement poses the following questions. Are the thirty days in a block or scattered throughout a year? What constitutes disruption as opposed to severe and irreparable damage? What or whom is being disrupted? Does this statement infer an extension of 30 days means the disruption or inevitable irreparable damage to environment, community and neighbouring property owners no longer becomes an issue and no liability flows?

I wrote to the NSW government concerning the current extremely poorly drafted SEPP codes relating to Screen Filming. I referred especially to definitions e.g. "filming", "30 days a year" etc. The government responded by ignoring my 15 page submission altogether, advising me that indeed the codes were being amended but not for the purpose of ensuring compliance by film companies but as I understand it, to remove the need for compliance altogether i.e. the 30 day limit for filming is to be extended indefinitely. I was invited to write another submission instead. This is that submission.

I also requested to know who is responsible for ensuring film companies are compliant with the law. I was told local councils are the enforcement agency. However as the NSW government has stripped councils of that power with regard to filming in **EFFECT** I have been unable to gain any assistance in the matter of alleged breaches of law.

The **FUN SEPP**, which proposes to extend the existing unenforceable 30 day filming limit, in **EFFECT** I allege it proposes to intensify indefinitely any damage caused by filming companies and enshrine it in law. This alleged damage is dealt with in detail below

In a democratic society with all rights there are attendant responsibilities. The proposed **FUN SEPP** does not address responsibilities. For the **FUN** to be had by a privileged few there is a colossal price to be paid by those the government is primarily elected to serve i.e. individual citizens and the community at large. More especially in the context of climate change the government is mandated to protect the natural environment not invite its destruction.

The proposed **FUN SEPP** is equally a **SUFFERING SEPP** or alternatively it may be viewed as a **PROFIT and LOSS SEPP**.

I provide personal testimony to the **ACTUAL EFFECTS** of the proposed changes to filming having endured the **EFFECTS** of an international film company ( the company) filming, on the adjacent property, within meters of my home over the last four months.

This submission is based on the actual and not intended **EFFECTS** of the proposed amendments as envisaged by people sitting at an office desk in the heart of a city.

Four months ago an international film company arrived in a small, quiet, peaceful and dignified rural village in Byron Shire. Historically property owners in the village have been committed to preserving and enhancing wildlife habitat on their properties.

The RU1 zone in this shire is the only zone deemed prime agricultural land by the Department. Commercial events and weddings are not permitted. However a major international film company is permitted to squeeze into a small rural property right in the middle of 3 adjacent property owners and several others in close proximity. I allege that in **EFFECT** the presence of the company provided little if any economic advantage to the Shire which is already saturated with Air b and b accommodation, commercial events and Film Festivals. I allege that in **EFFECT** the damage to the community caused by the company's activities far exceeded any benefit to the community.

The current NSW legislation is so poorly drafted that film companies are at liberty to interpret the written words to mean they have the unfettered power to do as they like, when they like, where they like with no accountability for the damage they cause. All they require is the consent of the absent landlord who owns the property who can be lured by immense profit. According to the current legislation no DA is required for construction work on a film site and no DA is required for filming. In **EFFECT** this mean no conditions are attached.

The NSW government has stripped Local Councils of their powers to enforce compliance with the relevant law (which is currently riddled with loopholes). Council has also stripped Council of its right to be compensated for the presence of film companies in their shire.

Currently there are one set of laws for film companies and another set of laws for local communities. Film companies are self- contained, self-sufficient and imbued with unfettered power by the NSW government.

Current legislation makes no reference to the need for consent from adjacent property owners prior to the major development taking place next door. The laws are determined by the NSW government in consultation with film company's agencies, Councils and property owners (absent landlords hosting film companies). . No mention is made of **COMMUNITIES** and **NEIGHBOURING PROPERTY OWNERS** and their lived experience. Nor is there in the legislation any provision for compensation for damage caused to impacted communities and the environment.

#### 1. **FUN and PROFIT**

There are three beneficiaries of the proposed changes to legislation (i.e. proposed **FUN SEPPS**)

1. Film companies receiving tax payer funded subsidies and reaping massive profit
2. Private property owners( absent landlords) commanding immense profit
3. A small number of film viewers (in terms of total population) watching movies in the quiet comfort of their homes.

#### 2. (a) **SUFFERING and LOSS – to the LOCAL COMMUNITY**

Traffic – Our local community has been adversely impacted by increased and relentless traffic flow including movement of massive machinery, demountables, generators, building equipment etc. on local roads. It has also been adversely impacted by an absence of traffic control.

**EFFECT** – Local road users have experienced traffic hazards including near miss collisions. The community have suffered substantial damage and destruction of their access roads and main local road. This has the potential to damage their vehicles.

##### Local Businesses

I allege the company has failed to communicate with the community at large and local village businesses e.g. village store.

**EFFECT**- I allege limited resources normally available for the community have been unnecessarily depleted by individuals from the company which shows lack of respect for the community.

##### Local Council

Failure of the company to communicate with Council resulted in earthworks and road building taking place without DA approval. (The only approval under the control of Council).

**EFFECT**- Earthworks and Road Building – caused substantial damage to the environment before a stop work order was issued. With the high profile legal advice available to the company, the company should have known a DA approval was required.

The NSW government imposes an onerous presumption on Council that Council will unconditionally approve of and fully support screen filming in their shire.

**EFFECT** – Essential Council resources were redirected from community needs to film company needs. I allege this has resulted in a depletion of council funds.

## **2. (b) SUFFERING and LOSS to NEIGHBOURING PROPERTY OWNER**

### **Personal Testimony**

The screen film company has been active on the neighbouring property for approximately four months. The current legislation stipulates that filming is permitted for a period of up to 30 days in a year. Construction work must be removed within that 30 day period. Neither filming nor construction work require DA approval.

### Earthworks and Construction

For the first three weeks unauthorised earthworks and road building took place on the property.

For the first six weeks major construction work and building took place on the property.

For six weeks there was intensive traffic and machinery activity on the property and constant building and construction noise. A large number of vehicles were daily parked alongside our boundary fence with the film site.

For six weeks we did not receive any communication whatsoever from the company to the effect that filming would be taking place next door and that we could expect to suffer considerable damage.

**EFFECT-** We suffered extreme stress as a result of not knowing what impact the company would have on our quiet enjoyment of our property and not knowing if and when the activity would cease next door. We were unable to plan our lives ahead. Further stress was induced by not knowing whether or not the property would become a permanent film site. During the six weeks we felt we were under constant surveillance by the people coming and going and the security guard in direct view of our driveway and property.

### Initial Notification

After six weeks of frenetic activity on the site we received a letter in a receptacle on our access lane (not our mailing box) addressed to the property owner informing us filming would commence on 5<sup>th</sup> October and be completed on 10<sup>th</sup> November. We were informed filming would be 24/7. The note was based on an assumption we knew what was happening. All of my knowledge to date had come from media reports and from Council (after three weeks.)

**EFFECT-** This letter greatly exacerbated the stress to which we had already been subjected. I immediately responded with a letter which I addressed to the on - site legal officer and delivered by hand to the property. I sought to discuss compensation for the damage suffered to date and anticipated further damage when filming commenced. I did not receive a response

### Commencement of Filming

#### Light Trespass

I stood in my home in utter shock when the filming lights next door were switched on for the first time. An enormous sheet of light illuminated our rainforest garden and glared directly through our bedroom windows and corridor. Everyone who came onto our property was equally shocked and

distressed at the extent of light trespass. The lights remained on throughout most nights and often during the daytime. On the last night we were exposed to strobe lighting that totally illuminated our property including every rainforest tree top and penetrated the windows of our house bombarding the interior walls. Neighbours kilometres away commented on the lights.

#### Noise Nuisance

Throughout the period of filming (36 days) at regular intervals we were subjected to shouting, screaming, loud speakers and music.

**EFFECT-** Our sleeping patterns were totally disrupted by the lighting. This was further aggravated by the stress induced by not knowing how long we would have to endure this and whether or not it would be permanent. Our health has suffered severely. Although filming has ceased the damage to our health persists. We were unable to host our friends in our home due to the encroachment of the film set on our property i.e. light and noise.

#### Environment

There is an abundance of wildlife on our property. It is a sanctuary for many native animals. The lighting next door was festooned through trees, and covered a vast area. The lighting was more intense and extensive than I have seen in any theme park.

**EFFECT-** I allege the intensity and extensiveness of the lighting would have adversely affected most of the animals on our property particularly as it in the middle of their breeding season and many animals are nocturnal.

#### Contact from ITV

On the last day of filming I received an email from a member of the ITV executive inviting me to discuss my concerns (presumably in response to a further email I had sent). This email arrived nearly four months after we had been subjected to intolerable stress and on the last day of filming. . We later spoke on the phone. I outlined the damage I allege we had suffered as a result of the film company's activities. I said that the company could not walk away from the site without acknowledging the damage they had caused us. I have received no further communication from the company to date.

The proposed **FUN SEPP amendments** will ultimately drive people from their homes. As no one wants to live next door to a permanent film site. The neighbouring property owners will be forced to sell to a developer who will bulldoze any remaining vegetation. No provision is made in the SEPP to compensate neighbouring property owners for depreciation in the value of their property as a result of filming activity. Can it be concluded that the worst case scenario will be compulsory acquisition of homes by the government? Is that the actual **INTENT** of the proposed **FUN SEPP**?

