

Explanation of Intended Effect: Cultural State Environmental Planning Policy

Proposed changes to support events
and activities in NSW

November 2024





Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Abbreviations/Glossary

Term	Definition
Codes SEPP	<i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>
Complying development	Includes larger or more complex building works than exempt development and requires sign off by a building professional known as a certifier or local council. It must meet all relevant development standards specified in the Codes SEPP
Development application	Submitted by an applicant and typically assessed by council on an individual basis against planning rules and council's requirements
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EIE	Explanation of Intended Effect (this document)
Exempt development	Minor building works and other low impact development which does not require a development application to local councils. They must meet all relevant development standards where specified e.g. in the Codes SEPP
Model conditions	Best practice conditions for development consents for development applications. They are optional for councils and can be used where appropriate
Portal	The NSW Planning Portal
SILEP	<i>Standard Instrument – Principal Local Environmental Plan 2006</i> sets out the standard provisions that all councils' local environmental plans must follow
Vibrancy Reforms	Changes made by the NSW Government to various legislation designed to boost the night-time economy in NSW. They include the NSW Government's <i>24-Hour Economy Legislation (Vibrancy Reforms) Amendment Act 2023</i> , the <i>Environmental Planning and Assessment Amendment (Vibrancy Reforms) Act 2024</i> and the <i>24-Hour Economy Legislation Amendment (Vibrancy Reforms) Act 2024</i> . More information on the Vibrancy Reforms can be found here
Vibrancy Guideline	The Guideline (at Appendix A) guides consent authorities, such as councils, when they assess an application to extend trading hours beyond 7pm for certain food and drink premises. The Guideline has been developed in line with the <i>Environmental Planning and Assessment Amendment (Vibrancy Reforms) Act 2024</i>

1 Introduction

The NSW Government is proposing changes to the planning system as part of a range of Vibrancy Reforms. These changes aim to create a more vibrant 24-hour economy in NSW, while supporting businesses and communities.

The NSW Government's vision is to support 24 hour precincts where businesses and workforces can thrive, allowing to communities to flourish and individuals to connect in vibrant, inclusive precincts that are active after dark. To boost NSW's 24-hour economy, the Department has been developing a broad suite of reforms to allow venues to reach their full social, business and cultural potential. The Government's Vibrancy Reforms have streamlined, updated and simplified regulation of noise, events, planning and liquor licensing. One part of the reforms is to explore more changes in the planning system to support local businesses. The reforms aim to create a thriving economy and give communities across NSW a variety of entertainment options.

This Explanation of Intended Effect (EIE) describes the proposed changes we will explore and make through a future *Cultural State Environmental Planning Policy* (Cultural SEPP), and provides guidance materials. The SEPP will make legislative changes to existing planning instruments.

The Cultural SEPP aims to:

- deliver more opportunities for cultural, performance and hospitality uses and venues
- identify opportunities in the planning system to encourage the establishment and improved use of venues and performance spaces
- support the ongoing use of existing spaces and places for music, performance and culture
- streamline approval processes to reduce the regulatory burden and associated costs for businesses and councils.

The Cultural SEPP EIE has been informed by the NSW Government's broader Vibrancy Reform program and the [Creative Communities](#) policy to enhance the state's 24-hour economy, hospitality and creative industries.

We will use your feedback to finalise the changes proposed in this EIE. Some of the proposals are likely to be implemented in early 2025. Others may take longer to deliver as they are more complex and may require further discussions with stakeholders to decide appropriate controls. We'd also like to hear your new ideas to support music venues, or barriers in the planning system that limit events and entertainment that we should review in our future work, or any other suggestions for the NSW Government to support and encourage vibrant places.

Tell us what you think

We welcome your feedback on the proposed changes. To have your say, please complete the [online feedback](#) form and upload a submission by 13 December 2024.

We have included some questions to help with the matters that we are considering. You do not need to answer all of the questions in your submission and we welcome additional feedback on any further suggestions.

If you have questions about the EIE please email legislativeupdates@planning.nsw.gov.au



How this document is structured

This document is an Explanation of Intended Effect (EIE) to explain the proposed changes. It is divided into the following chapters:

- **Chapter 2: The 24-hour economy in NSW** explains the background and benefits of the NSW Government's suite of Vibrancy Reforms.
- **Chapters 3-6: Policy proposals** explain the objectives of proposed changes to planning controls to be delivered through a future Cultural SEPP. The proposals are grouped by current planning pathways, events, outdoor dining and food trucks.
 - **Chapter 6** proposes two changes to the Business and Industrial Codes in the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* ('the Codes SEPP'). These are not part of the Vibrancy Reforms and may be delivered separately in a future change to the Codes SEPP.
- **Chapter 7: New draft Guidelines** introduces two new guides - the Guideline for Late Night Hours of Operation for Food and Drink Premises (Appendix A) and the Guide to Planning Pathways for Community Events (Appendix B).
- **Chapter 8: Next steps** invites your feedback on the proposals and explains what will happen after the exhibition period closes.

This EIE has been prepared in line with section 3.30 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to allow the public to make submissions that will be considered as part of the finalisation of the draft planning controls.

2 The 24-hour economy in NSW

2.1 The Vibrancy Reforms

The NSW Government made several election commitments to restore vibrancy to NSW. These are being delivered through a significant regulatory reform agenda, known as the Vibrancy Reforms.

The Vibrancy Reforms are a cross-government initiative developed in consultation with key government agencies, industry stakeholders and councils with an established night-time offering. The reforms aim to bring sector regulation in line with contemporary going out behaviours, improve government processes and increase certainty for venues. They also aim to incentivise a more diverse nightlife and encourage more people to go out, closer to home.

The *24-Hour Economy Legislation (Vibrancy Reforms) Amendment Act 2023* and the recently made *24-Hour Economy Legislation Amendment (Vibrancy Reforms) Act 2024* made changes to a range of legislation which included:

- making Liquor & Gaming NSW the lead regulator for entertainment sound from licensed premises, more favourable noise management environment for venue operators, switching off noise-related conditions of development consent and 'offensive noise pollution' laws when matters are regulated by the *Liquor Act 2007*
- amendments to the *Environmental Planning and Assessment Act 1979* to switch off conditions of consent that prohibit particular music genres, the type or number of musicians playing at venues or the provision of entertainment at venues

- streamlining the pathway for declaring a major event and make it easier to support recurring events of state significance through amendments to the *Major Events Act 2009*
- a strengthened Special Entertainment Precinct (SEPs) framework with trading hour extensions by amending the *Local Government Act 1993* to allow for the overriding of restrictions on venues in SEPs
- a streamlined processes for planning and liquor license applications, extended trading hours and licence fee discounts for live music and performance venues
- introduction of a mediator under the provisions of the *24-Hour Economy Commissioner Act 2023* to deal with disputes regarding live music and performance venues.

The NSW Government is committed to restoring vibrancy to NSW to help create an environment for venues and artists to flourish, simplify the regulation of entertainment noise, remove red tape for local councils and support outdoor activation.

The Government has launched policy and program initiatives to make outdoor dining and street activation easier, support venues to offer live music, and grow thriving, unique local precincts.



2.2 Cultural SEPP background

One of the NSW Government’s election commitments to support vibrancy was to establish a Cultural SEPP. This aimed to give councils the power to change their rules to support music venues in their local area, including rules around trading hours, outdoor performances, and planning and sound regulation. The Cultural SEPP is also reinforced by the NSW Government’s arts, culture and creative industries policy, *Creative Communities*, which seeks to unlock and activate creative spaces through regulatory reform and other means.

The Vibrancy Reforms have incentivised the use of existing venues to host live music, and Special Entertainment Precincts encourage the establishment of venues in appropriate areas, such as those benefitting from uplift associated with transport hubs. Consequently the objective of an election commitment to increase floor space through density bonuses for developments that include new music venues is being implemented through other initiatives. The incentives we proposed in a previous EIE in 2023 will not be separately pursued. However, this EIE (this document) will continue to explore reforms proposed in 2023 for outdoor dining patron capacity.¹

The Government used the reforms to amend the EP&A Act in May 2024 to deliver guidance for councils when considering applications for extended hours of operation for particular food and drink premises. The draft guidelines (Appendix A) will be issued by the Secretary of the Department of Planning, Housing and Infrastructure when they are finalised.

We have broadened the scope for the Cultural SEPP EIE to support more creative, hospitality and cultural uses that contribute to the 24-hour economy as some of the original objectives have been delivered. This EIE sets out a range of proposed policy changes. Many of these respond to ideas raised by stakeholders during the Government’s vibrancy reform work.

With a broader scope for the Cultural SEPP, we will look at ways that the planning system can support the intent of liquor licensing changes, as well as the broader needs of the 24-hour economy.

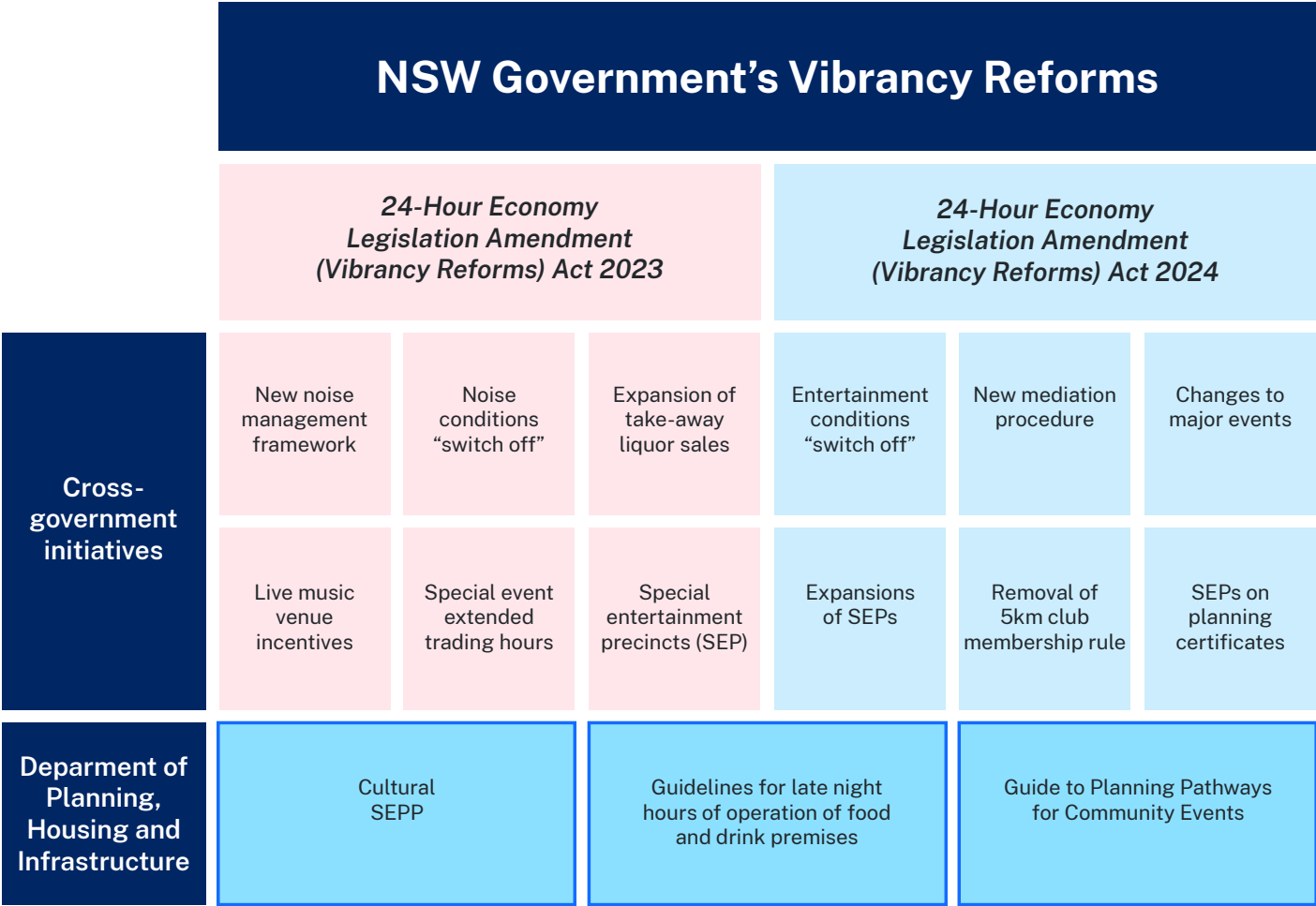


Figure 1: Overview of the Vibrancy Reforms

1 More information about the previous proposal is available in the [EIE for outdoor dining on private land and live music venues](#)



2.3 Planning context

Venue owners and event organisers looking to provide hospitality, entertainment and performances can do so through several development pathways. The pathway used generally depends on the scale of the proposal and its impacts.

Starting from low impact development, the **exempt development** pathway does not require planning or building approval as long as the proposed development meets all of the development standards listed in the planning instrument. For example, the Codes SEPP allows for small scale stages and platforms, and the low impact performance of live music or arts in existing premises, if it is not in a residential zone.²

For higher impact entertainment, approval may be required through either the **complying development** pathway in the Codes SEPP (such as those outlined for larger temporary structures in section 4.1 of this EIE), or a development application to the local council.

A **development application (DA)** is submitted by the applicant and assessed by council on an individual basis against the planning rules and council's requirements as set out in its **Local Environmental Plan (LEP)** and policies. If approved, the council may include certain conditions in the notice of determination. These could set out not only how any structures are constructed, but also the ongoing use of the venue and future performances.

² See Subdivision 15AB Entertainment associated with existing premises in the Codes SEPP.

3 Policy proposals – current planning pathways

The following chapters describe the changes we are proposing to current planning controls through the Cultural SEPP and the intended objective. Some of the changes will apply across NSW, while others only apply to a particular place or type of business.

We have included some questions to help us reach the right policy settings for creatives, businesses and the community that use and live alongside these sites and premises. We would also like to hear what other ideas you have or changes that we should consider to help support NSW's 24-hour economy.

3.1 Non-refusal standards for entertainment

Overview

A council may refuse a development application following its assessment of the proposed development. In 2020, the Government made changes to prevent councils from refusing applications for licensed premises based on noise caused by the playing or performance of music if the council is satisfied the noise can be managed and minimised to an acceptable level. These 'non-refusal' reasons are set out in Clause 5.20 of the Standard Instrument – Principal Local Environmental Plan (SILEP)³. They include the genre of music, whether dancing occurs and what decorations are used.

The Department has been working with the Office of the 24-Hour Economy Commissioner to consider expanding the reasons to protect other forms of entertainment and that Clause 5.20 also applies to unlicensed premises. This is in response to some industry stakeholders who have raised concerns that Clause 5.20 only covers live music and is not adequate to protect other types of future entertainment from being refused by councils, such as comedy. Including unlicensed premises which provide entertainment also supports the Government's aim to provide more performance venues.

Proposed changes and effects

We propose to expand the non-refusal standards in Clause 5.20 to unlicensed venues and to include other types of entertainment. This could be specified to include comedy, theatre or other performances based on the EIE feedback. Given that entertainment is a subjective and broad activity, there may still be specific types of entertainment which should not be included in Clause 5.20, such as adult entertainment involving nudity, indecent acts or sexual activity.

This change could be delivered through the SILEP by updating Clause 5.20. This would mean any changes would automatically be included in all councils' LEPs.

Consultation questions

- Do venues have problems with their DAs because of the types of entertainment they propose to host? If so, what are these problems?
- What other types of entertainment or performance (not just live music) should we include in the list of non-refusal standards?



³ See [Clause 5.20 Standards that cannot be used to refuse consent – playing and performing music](#).



3.2 Conditions of consent for entertainment

Overview

The NSW Government's Vibrancy Reforms changed the legislation to provide more favourable noise management for venue operators. Since 1 July 2024, certain noise-related conditions on licensed venues' development consents cease to have effect while the matter is being regulated under the *Liquor Act 2007*.⁴

For existing development consents which have conditions on live entertainment, the EP&A Act already allows councils to retrospectively modify development consents to declare that live entertainment conditions do not apply.⁵ For example, a council could decide that it wants to encourage entertainment in a centre and publish a notice on its website to specify that certain out of date live entertainment conditions no longer apply.

However, the NSW Government would like to protect all types of entertainment in future developments. The Vibrancy Reforms switch off of conditions at certain licenced premises that prohibit live entertainment completely, or after a certain time, through an amendment to the EP&A Act. The switch off will apply to premises with a hotel licence, club licence or small bar licence at a future date to be proclaimed.

This is because industry stakeholders have suggested that some councils apply development conditions that are too restrictive for licensed venues to host live music.

For example, some development consents have conditions on the maximum number of performers allowed, if entertainment is permitted. Other conditions may not allow entertainment at all. Some venue owners have stated that the development conditions should recognise the recent noise management reforms and should not include any liquor-based conditions, which should be managed by the liquor licences instead.

This uncertainty about what conditions a council may apply and how they will be worded makes it difficult for prospective businesses to establish. They may not be confident that their application will be approved or if the conditions applied would unreasonably limit the feasibility of the business.

⁴ Find out more about how the changes affect development consents for licensed premises in Planning Circular [PS 24-003](#).

⁵ See [Schedule 8, Part 1, Section 1 Modifications involving playing and performing music](#) in the EP&A Act.

Proposed changes and effects

With the broad switch off of entertainment conditions, councils will be provided with ‘model conditions’ which they can use for those conditions which still have effect in venues. Standardising the wording of conditions also contributes to the election commitment to harmonise planning and liquor licensing approvals.

New model conditions would expand on the Department’s earlier series of standard conditions of consent for different types of uses. We are proposing model conditions for development consents for both licensed and unlicensed venues, and food and drink premises.

Standard conditions of consent

These are model conditions for best practice. We encourage councils to adopt these conditions where appropriate in consents. Standardising how development consents are written gives applicants and communities across different local government areas certainty and consistency.

No changes to planning instruments are needed as these are model conditions intended for development consents. We suggest the following topics along with the reasons:

- Entry and exit of patrons – to support the amenity of the neighbourhood and minimise the disturbance of adjacent residents and uses.
- Maximum capacity during ongoing use (total capacity, and indoor and outdoor areas) – so that premises can safely accommodate patrons, performers and staff.
- Use of CCTV and signage – to support the safety of patrons, performers and staff, to reflect modern technology, and to enable security incidents to be investigated if needed.
- Landscaping (if a landscaping plan is required)– to provide visual privacy for neighbouring dwellings.
- Acoustic treatment – to provide effective strategies for sound management if entertainment is provided.

Consultation questions

- Would licensed venues benefit from other model conditions? If so, what topics should they cover?
- Are there other common topics which would benefit from a model condition for unlicensed food and drink premises, or performance venues? If so, what are these?

4 Policy proposals – events

4.1 Temporary structures for community events

Overview

Events play an important role in bringing local communities together to celebrate, entertain and show off their local character, customs, produce and unique areas. Organisers of a community event can use either an exempt or complying development pathway for temporary event structures such as signs, tents, booths or stages if the structure complies with all of the specified standards.

The exempt and complying development standards for these temporary structures include limits on the size of a stage or platform, size of a temporary sign and floor area of a tent or marquee. Some organisers have suggested increasing the size and height limits of structures. Some are unsure if the floor area restrictions are for individual or all structures at the event.

The Codes SEPP's provisions are for temporary structures only, not to approve the event itself. However, if the temporary structures exceed the size or height limit of the complying development standards, the event organiser will need to submit a DA for the temporary structures that exceed the development standards. More guidance on this is provided in the new draft 'Guide to Planning Pathways for Community Events' at Appendix B in this document.

Proposed changes and effects

To support local events, provide clarity for event organisers and reduce red tape, we would like to allow more development through the Codes SEPP for temporary event signs, tents, marquees or booths, stages or platforms. We are seeking feedback on appropriate increases to the current numerical standards and expanding the allowable development.

Updating the Codes SEPP will make it relevant for contemporary events in metropolitan and regional areas. Pathways in the Codes SEPP will most likely be suitable for small and medium events and reduce the need for organisers to lodge DAs. This means council assessment teams can focus on DAs for larger events or other developments, like housing.

Consultation questions

Temporary event signs

- Should event signs be larger or displayed longer before and after events to allow flexibility for set up and removal? If so, what is an appropriate size and timeframe?
- Should sign illumination be allowed and if so, should it be for certain zones or times only?

Tents, marquees, booths, stages or platforms

- Are there any development standards which are unclear because they may be interpreted in different ways? How would you suggest such development standards be made clearer?
- Are there common industry standards for temporary event structures (e.g. floor areas and heights for tents and stages) that necessitate DA approval, even though they would be more appropriate as either exempt or complying development under the Codes SEPP?
- Are there other common temporary event structures that should be added?



4.2 Supporting events at major precincts

Overview

The NSW Government, through agencies such as Placemaking NSW, Greater Sydney Parklands and Create NSW, manages and activates several of Greater Sydney's best known sites such as The Rocks, Centennial Park, Parramatta Park, Botanic Gardens of Sydney and Mount Annan, and Darling Harbour.

These public sites can be used to hold larger events, which attract more people and often run longer and later than local community events. This requires larger stages and more temporary structures. The planning system supports temporary events and their associated structures at these sites through streamlined pathways in planning instruments such as the Codes SEPP.

The Government wants to attract and support more events and festivals in NSW. These events bring benefits to local communities and businesses, and to the state's economy through tourism. We would also like to streamline approval pathways to make it simpler, faster and cheaper to put on events at these sites which are well regulated by measures such as plans of management.



Proposed changes and effects

Several government agencies have requested that we review the current controls to support more events and activities at their sites through the streamlined planning pathways to allow:

- proposed new locations for streamlined planning pathways could include Walsh Bay, Centennial Park and White Bay Power Station
- increased development standards – for example events to be held for more than 60 days, or a site used for more than 200 days per year, or a certain number of events after midnight, or allow set up and clean up to be extended so that events can run longer
- allowing larger stages and temporary structures
- allow some events the flexibility to run later when managed through a plan of management for the site, supporting the Government's night-time economy strategy.

These changes will be staged over 2025 depending on their complexity, stakeholder feedback and legal drafting. For example, additions to existing standards in the Codes SEPP could be delivered in early 2025. Other sites have their own legislation and particular planning controls that would need to be reviewed. Not all sites or activities may be suitable for inclusion in the Codes SEPP's (or similar) streamlined pathway and may be subject to future work. We'd like to hear from agencies, communities and neighbouring businesses on proposals to increase the existing provisions.

Consultation questions

- Should new sites be included in the exempt and complying pathways? If so, which sites?
- How many days each year should sites be able to host activities and events?
- Is the *Major Events Act 2009* the more appropriate legislation for delivering significant events at these sites through a streamlined pathway?
- Should all of the sites be treated the same, or are there local circumstances that we need to consider?
- Should the plan of management for a site establish the controls for events according to need and local circumstances, instead of the planning controls being the same for all sites?



4.2.1 Review of planning controls at key event sites

We are aware that an extra difficulty for venues and event organisers are the different rules and requirements for each site. This can make it harder to do business in NSW, and we sometimes lose out on events to other states. For example, some sites have older conditions to manage sound impacts that do not match how current technology can control sound and frequencies, or have a limit on the number of events at the site, or restrictions on the number of consecutive nights that an event can run.

Some event organisers accrue costs to install shared temporary infrastructure which then can only be used for part of the time that it is in place due to the sites' event limitations. This increases costs for people who want to use the space and limits additional users. All of this means that sometimes a band will play fewer shows, or a festival may go to another state, meaning fans, performers and our businesses miss out.

The Government plans to review the controls applied to some major event sites next year. This will establish if any of the settings should be changed to make it easier and cheaper for festivals and event organisers to use these sites.

Placemaking NSW sites

Placemaking NSW creates, manages, and cares for many of Sydney's unique iconic harbourside locations including The Rocks, Barangaroo and Darling Harbour, Luna Park, Ballast Point Park, and waterfront areas in Pyrmont. Placemaking NSW is also responsible for the extensive remediation and conservation works to repurpose White Bay Power Station as an arts, cultural and community hub. Planning provisions applying to Placemaking NSW are contained in the *Place Management NSW Act 1998*.

Placemaking NSW brings Sydney's foreshore to life with a vibrant mix of events from small scale community events to some of the city's biggest and most popular annual events such as New Year's Eve, Australia Day, Vivid and SXSW. The harbourside locations have also been used to host significant milestone moments such as the FIFA Women's World Cup Fan Zone, as well as high-profile international film projects.

These activities deliver significant social and economic benefit to NSW. Due to their scale and popularity, they often require greater levels of planning flexibility to accommodate larger infrastructure, later operating times, and more operating days which under the current planning requirements can only be achieved through development approval at a significant cost. The proposals will support Placemaking NSW to make these iconic locations more accessible, and attractive for events that deliver on the Government's tourism and economic objectives.



Sydney Opera House

Planning provisions applying to the Sydney Opera House are contained in the *State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021*, as well as site-specific requirements under the *Heritage Act 1977*.

In addition to maintenance, building works and security, these instruments govern the frequency, duration, infrastructure placement and sound management of outdoor events and activities. This includes low scale, free performances, community events on the Forecourt such as the Sydney Running Festival, and larger scale music concerts on the Northern Boardwalk.

As part of the broader vibrancy reforms, the legislative provisions will be reviewed to ensure that the management framework for the Sydney Opera House meets current needs of users and surrounds. Key issues being investigated include the definitions of low, medium and high impact events and new limits on frequency and duration, updates to sound levels, and updates to the noise measurement methodology for events, including those held on the Forecourt.

Centennial Parklands

Greater Sydney Parklands manages Centennial Parklands where events are regularly held. The *Centennial Park and Moore Park Trust Act 1983* and the *Centennial Park and Moore Park Trust Regulation 2024* (CPMPT Act and Regulation) provide for the maintenance and improvement, use and enjoyment, public access and protection of the environment for Centennial Parklands.

The CPMPT Act and Regulation also regulate the way in which large events with more than 20,000 people can be held at Centennial Parklands. For these large events including film festivals, musical events, cultural events or food and beverage events, no more than 8 can be held in a calendar year.

The Government is considering changes to the CPMPT Act and Regulation to remove the restriction on the number of large events (i.e. more than 20,000 people) held at Centennial Parklands. Greater Sydney Parklands would continue to manage the event program. However, removing the cap on the number of large events would introduce consistency with the way events are regulated at other parks, including Parramatta Park. This change would be implemented through a future review of the CPMPT Act and Regulation.

Consultation questions

- What other key event sites should the Government include in its review to support events and what are the sites opportunities and limitations?

4.3 Vivid Sydney

Overview

Destination NSW (DNSW) operates Vivid, the annual light and sound exhibition in the City of Sydney. Vivid attracts approximately 3 million visitors each year and is a key event for NSW.

The Department proposes to make exempt development standards for the temporary light and sound structures used for Vivid's projections. This would mean that DNSW does not have to submit a DA to the City of Sydney Council, or use the *Major Events Act 2009* which also makes the temporary structures exempt development.

The event would continue to be managed in accordance with the management plans which the City of Sydney approves for the installations, as the locations and structures change from year to year. These include plans to manage the event, sound, security, traffic and crowds.

Proposed changes and effects

We propose to expand the provisions for the temporary structures that illuminate various buildings in the city, multiple individual installations and safety fencing. These provisions would allow up to 30 days for set up, 23 days for the event, and up to 15 days to dismantle and remove the structures.

The installations would be illuminated during the event between 5pm and midnight. Maintenance activities would be permitted between 3pm to 6pm and midnight to 6am.

Set-up and dismantling activities would generally be from 7am to 11pm, with a maximum of four nights from 11pm to 7am for set up and 2 nights to dismantle. This allows for testing in the dark and to minimise disruption in the public space caused by vehicle movements etc. Other standards will be included to define and provide for the safe installation and operation of structures.

Consultation questions

- Should specific locations be included in the exempt pathways or anywhere in the City of Sydney local government area?
- Is the *Major Events Act 2009* the more appropriate legislation to manage and deliver Vivid overall, rather than exempt measures for the structures?



4.4 Temporary extended trading hours for unlicensed venues during special events

Overview

Licensed venues, such as bars, restaurants and clubs, can stay open later during certain special events declared by the Minister for Gaming and Racing. These are special events of regional, state or national significance, such as the Tamworth Country Music Festival, Vivid Sydney or screening of an overseas sporting event. The temporary later trading hours are provided through the Codes SEPP as exempt development, meaning that the licensed venue does not also have to apply to modify its development consent for the additional hours. The measures can be applied statewide, to a specific local government area and suburb, or to individual venues.

We are proposing to also establish a process to allow unlicensed venues, such as shops, unlicensed cafes and restaurants, to also temporarily stay open later for special events, like licensed venues do. This will give the community more retail and hospitality choices during special events, while boosting local night-time economies.

Proposed changes and effects

We are proposing to establish a process and make changes to planning controls to create a new exempt development pathway for unlicensed venues to have temporary extended trading hours for certain special events, including those currently declared by the Minister for Gaming and Racing. Changes may be made to the 'special events' definition to add events of local significance. This aims to capture smaller, local events, such as night markets, agricultural shows and festivals. These levels of special events are not captured in the current special events framework.

We are proposing to allow councils to nominate local events to be declared as special events, contributing to more vibrant local economies. Councils could also map specific areas where temporary extended trading hours during specific special events will apply, to assist in addressing amenity impacts on nearby residential properties.

The additional hours are not intended to apply to other premises where a licensed premises is screening a particular event, for example the venue is staying open to screen an individual overseas football match.

The proposed changes create equity between licensed and unlicensed venues, allowing for more opportunities to trade during nominated special events. It also saves businesses and councils time and money from having to temporarily modify development consents.

Consultation questions

- What types of businesses should have access to the temporary extended trading hours?
- In addition to special events declared by the Minister for Gaming and Racing, what types of local events should we consider as 'special events'?
- Should we set a maximum number of nights or times this can be used in one location?

4.5 Cultural activation of town halls

Overview

Town halls have been part of Australian civic life for generations. Over time, the role of some town halls has shifted from council's administrative base and hosting town meetings to becoming community spaces for functions, conferences, exhibitions and local performances. We are looking at how town halls could be used for more entertainment and cultural uses, such as live music, theatre performances and festivals.

We are aware that some councils may face barriers when using their town halls and other premises for other purposes. The NSW Government wants to work with councils to identify and address these barriers to expand the use of town halls.

Proposed changes and effects

We would like to understand if any changes are needed to planning or zoning controls to allow town halls to be used as entertainment facilities. We would also like to know if councils face other barriers which prevent them from maximising the use of their facilities.

These proposed changes will expand the entertainment uses of town halls, in line with other music and performance halls. This diversifies opportunities for local live music and performances, further supporting local artists and communities.

We will work with local governments to find the best approach for implementing the proposed zoning changes. This could include statewide reforms or allowing councils to opt-in to the changes for their local government area.

Consultation questions

- What are the barriers stopping councils and the community from using town halls for live entertainment?
- What support can the NSW Government give councils to activate town halls and other community facilities for live performances?

5 Policy proposals – outdoor dining and food trucks

5.1 Providing outdoor music and outdoor dining using exempt development

Overview

Music and performance

The [Codes SEPP](#) allows low impact performance of live music or arts indoors as exempt development as long as it is within the listed standards. These measures apply in non-residential zones and the standards aim to protect amenity.

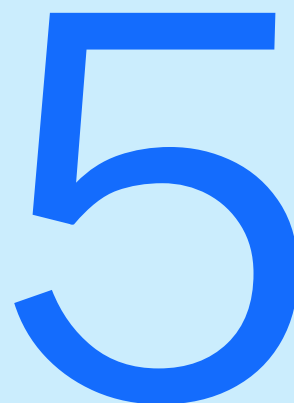
Some businesses would also like to provide occasional performances or live music in their outdoor spaces such as beer gardens or bowling greens. If this is not part of a venue's current development approval, the owner would need to obtain council's approval to modify their current consent. The time and cost to obtain this approval has been identified by some businesses as a barrier to expanding their offering.

Outdoor dining

We exhibited an [Explanation of Intended Effect in 2023](#) which proposed to permanently allow outdoor dining on private land and at registered clubs with increased patron numbers if the venue met certain complying development standards such as the number of toilets provided. This proposal was intended to replace the temporary exempt pathway, introduced during COVID, that was due to expire at the end of 2023.

The complying proposal was later overtaken by changes to the Codes SEPP which made the temporary exempt pathway ongoing by removing the end date. However, the exempt development standards do not allow increases to the venue's patron capacity. A venue wishing to increase the number of patrons, due to more people dining outdoors, would still need approval from their local council.

We heard that the 2023 complying development proposal would not be possible for certifiers to deliver. We have taken on that feedback and are exploring alternate ways to increase patron numbers if this can be achieved safely and maintain patron amenity.





Proposed changes and effects

The Government would like to support businesses to maximise the use of their space. For outdoor music, this could be achieved by removing the Code SEPP's restriction that performances must take place inside the building. However, to be exempt development performances must be low impact and not increase the permitted number of patrons. The proposal does not intend for live music and performances to become the primary purpose of the business. For example, it would not allow the change of use from a café to an entertainment facility.

For outdoor dining, we are proposing to explore standards which would allow increased patron capacity as exempt development. For example, the increased patron capacity could be achieved by allocating a set number of patrons per square metre of floor area that is allowed (based on the land use or zoning of the land) for outdoor dining.

We would like to hear from stakeholders to help us design appropriate standards that support businesses, artists and the NSW Government's commitment to live music and outdoor dining without unreasonably impacting on neighbouring uses.

Consultation questions

- Should the proposal for outdoor performances as exempt development be limited to live music and performance?
- Should the exempt measures limit the outdoor performance times, or should the measures allow outdoor performance to whenever the venue is approved to operate? If so, what hours are appropriate?
- If a business wants to hold events outdoors frequently (and so attract more patrons), should a new council planning approval be required to make sure the premises are suitable and neighbours are not unduly disturbed?
- Since not all development consents specify the maximum indoor and outdoor patron capacity, should development standards for outdoor patron capacity be calculated based on the venue's floor area, just the outdoor floor area or other matters such as the number of toilets or parking?
- What measures should we put in place to make sure that patron safety and amenity continue (e.g. the ability to exit safely in the event of an emergency)?

5.2 Outdoor dining at farm gate premises

Overview

Outdoor dining is a popular activity across NSW. Food and drink premises (such as restaurants, cafes and pubs) can offer outdoor dining through an exempt development pathway. 'Farm gate premises', including cellar doors, are unable to access this pathway for outdoor dining. We are proposing changes to make outdoor dining easier for farm gate premise operators and to support regional communities and tourism.

A **farm gate premises** is where visitors interact with produce from the farm, such as fruit picking, sales, tastings, workshops and cafes. It is a type of agritourism land use.⁶

Proposed changes and effects

We are proposing to extend the outdoor dining exempt development pathways in the Codes SEPP to include farm gate premises. This will require amendments to the Codes SEPP to allow farm cafés, restaurants and cellar doors to provide outdoor dining for their visitors. This means that farm gate operators will no longer need to apply to the council to modify their existing development consent to provide outdoor dining.

Farm gate premises operators will still need to comply with the agritourism development standards in the Codes SEPP. This will manage amenity impacts, such as noise, car parking and visitor numbers. We are not proposing any changes to visitor number limits or trading hours for farm gate premises that have outdoor dining. Businesses that serve alcohol will also need to apply to Liquor & Gaming NSW to update their liquor license.

6 For more information on agritourism, see the [Setting up an agritourism business A guide to planning approvals](#)



Consultation questions

- Are any other development standards needed for farm gate premises to set up outdoor dining? If so, what should these be?
- Should outdoor dining be permitted in all land use zones where agritourism is permitted?

5.3 Updated provisions for food trucks in residential and conservation zones

Overview

Mobile food and drink vendors have been specified as exempt development in the Codes SEPP since 2013. This means that mobile food and drink vendors, such as food trucks and coffee carts, do not need to obtain development consent to operate if they meet all development standards and general requirements for exempt development in the Codes SEPP. This has made it easier for mobile vendors to operate and service their local communities.

However, we have heard that some outlets are adversely impacting the amenity of local residents in some residential zones. For example, where a concentration of food trucks is permanently located and operating from driveways and gardens in a residential zone, or from semi-permanent structures such as a shipping container.

Proposed changes and effects

We propose to strengthen the exempt development standards for carrying out the retail sale of food and drinks on private land from a mobile outlet such as a food truck. The proposed exempt development standards will improve the amenity of residential neighbours and clarify the development standards to support food truck operators, landowners and local councils.

There is currently no exempt development standard that controls the **number of days** a mobile food and drink outlet can be located on a lot of land. This is because the policy was designed to manage the operations of mobile vehicles that temporarily trade and then move on to a new location. However, this has resulted in permanent outlets establishing in residential zones, impacting the local amenity with noise, odours, lights and waste. Food trucks should not be permitted to operate as a permanent restaurant or café in a residential or conservation zone as exempt development. If operators wish to establish a permanent restaurant, they can apply to their council for approval and be subject to the same standards as other businesses.

We propose new standards to cap the number of days (day limit) that a mobile food and drink vendor can operate on land in residential zones (Zone R1, R2, R3, R4 or R5) and conservation zones (Zone C1, C2, C3 and C4). To satisfy exempt development standards, it is proposed that mobile food and drink outlets will be permitted to operate on a private lot in a residential or conservation zone for a **maximum of 30 days** in a calendar year.

This would allow mobile food and drink outlets to operate in residential and conservation zones for the duration of a festival or event, or intermittently throughout the year, but not to set up permanently on residential or conservation zoned land.

A day limit is not proposed for non-residential zones (such as E1 Local Centre or MU1 Mixed Use). However, the mobile food and drink outlet must have the landowner's permission to satisfy the existing exempt development standards.

The **operating hours** of food trucks were exhibited in 2021 and no changes are proposed. The operating hours of food trucks in a residential zone will remain 7am to 7pm. Food trucks in zones next to a residential zone can operate until 10pm and operating hours in other zones will remain unlimited.

We have also heard that some operators are selling food and drink from **shipping containers**, fitted out as a kitchen and which are in place for extended periods. The exempt measures were not designed for permanent or semi-permanent large structures such as shipping containers. Containers are not suitable in all locations such as on residential or flood prone land. However, we are aware that they serve an important role especially for temporary events and festivals. We'd like to hear if there are opportunities to develop a streamlined pathway and sensible standards for this type of business set-up.

Consultation questions

- Is 30 days in a calendar year suitable as maximum number of days for food trucks to operate on a lot in a residential or conservation zone? Should councils have a role in assessing them?
- Are new standards needed for businesses operating from a shipping container style outlet, or should the local council assess them as a building or temporary structure?

6 Policy proposals – updates to the Business and Industrial Codes

This chapter describes changes that we are proposing to the Codes SEPP for a wider range of business, and to make parts of the Codes SEPP easier to use. They are not specifically part of the Vibrancy Reforms but they do contribute to activated employment purposes, and we may make these reforms separately rather than in the Cultural SEPP.

6.1 Allowing change of use in SP4 Enterprise zones

Overview

Part 5A Industrial and Business Buildings Code of the Codes SEPP allows businesses to quickly adapt their offerings to new market demands, attract investment, upgrade sites and adjust operations via a streamlined complying development planning pathway. Currently the Industrial and Business Buildings Code applies to business and industrial zones, however it does not include Zone SP4.

The SP4 Enterprise zone aims to support specific areas with unique land-use needs. While only a few LEPs incorporate this zone, we have heard that some change of use in SP4 zoned land is triggering the need for a DA because the Industrial and Business Buildings Code does not apply.

We have heard this planning pathway is adding time and cost to straightforward changes of use in existing buildings and is proving prohibitive to some prospective new tenants. Unnecessary red tape and barriers to development via the DA merit assessment process are not consistent with the mandatory SP4 zone objective of providing for development and land uses that support enterprise and productivity.

Proposed changes and effects

We intend to apply the Industrial and Business Buildings Code provisions to Zone SP4. This will permit changes of use and minor internal alterations, provided they do not increase the building’s gross floor area, to be complying development. This will provide a streamlined planning and construction approval pathway for straightforward proposals.

The proposal will not affect the permitted land uses in a SP4 zone, which are set by councils in their LEPs. The planning approvals pathway will be streamlined from a merit assessment DA to complying development, but permissibility of land uses in Zone SP4 will remain the same. The existing development standards in the Codes SEPP that apply to changes of use and internal alterations would be applied to SP4 under this proposal.

A complying development pathway for businesses in the SP4 Enterprise zone will lead to improved viability of tenancy in these zones through reduced lead times and overhead costs for businesses. This will contribute to the enterprise objective of the zone and improve the vibrancy of areas by avoiding vacant tenancies.

Consultation questions

- Do you support the proposal to apply change of use and internal alteration provisions in Part 5A of the Codes SEPP to land in Zone SP4 Enterprise?
- Should any other provisions of Part 5A have effect in Zone SP4?



6.2 Bicycle rails and lockers

Overview

Development consent conditions often specify the minimum amount of bicycle parking that must be provided for large, new commercial, retail and residential building. However, older examples of these buildings may not have enough bicycle parking to meet current needs.

Adding an exempt development planning pathway will make it easier to provide more bike rails and lockers. New development standards will allow bicycle parking to be appropriately designed and located when it is retrofitted in existing buildings.

Removing red tape for cycling infrastructure aligns with the NSW Government’s [Active Transport Strategy](#) which aims to double the current 1.5 billion walking and bike riding trips annually in NSW over the next 20 years. We know that vibrant communities are those that are walkable and rideable. The Strategy identifies the need for 15-minute local neighbourhoods that allow communities to be strong, vibrant and active by prioritising walking, bike riding and place-making to local destinations and transport networks. Making it easier to provide bike parking in existing buildings is a small but important change to enable more people to safely and conveniently ride their bikes as part of their everyday travel. It also supports multimodal journeys by helping to integrate active transport infrastructure into existing parts of our cities and towns.

The NSW Government is committed to increasing the delivery of homes in well-located areas close to transport, shops and services. It’s important that the planning system supports building upgrades to enable shifts in transport modes resulting from this urban consolidation focus, such as reduced reliance on cars and increased use of active transport such as bikes.

Proposed changes and effects

We intend to make an exempt development pathway so that all types of buildings (businesses, residential buildings, community centres etc.) can be retrofitted with bicycle parking without needing approval via a complying development or DA pathway. This will ensure efforts to promote cycling as a sustainable, cost-effective and healthy form of transport as straightforward bike parking infrastructure is not impeded by red tape. The change will help to provide safe, secure and convenient bicycle parking in buildings that people live in, work in and visit.

Bicycle rail means a bicycle parking device for one or more than one bicycle, which provides support for a bicycle on one or both sides.

Bicycle locker means a high security, enclosed lockable space designed to park one bicycle within it.

The proposed development standards are listed below and based on the Australian Standards for bicycle parking. They aim to provide flexibility in constructing straightforward bike parking while ensuring convenience and functionality for users.

The proposed development standards will only apply to the retrofit of existing buildings. The provisions will not affect bicycle parking rates or design requirements for new buildings and will not apply to outdoor bike rails, or to rails or lockers in public places.

Consultation questions

- Are the definitions for bicycle rail and bicycle locker appropriate?
- Are there other development standards, over and above those in Table 1, that should be considered?

Table 1. Proposed definitions and development standards for bicycle rails and bicycle lockers

Type of bicycle parking	Proposed definition and development standards
bicycle rails and bicycle lockers	A bicycle rail or bicycle locker is exempt development if the structure is not constructed or installed on or in a heritage item or a draft heritage item.
bicycle rails and bicycle lockers	<p>Bicycle rail means a bicycle parking device for one or more than one bicycle, which provides support for a bicycle on one or both sides.</p> <p>Bicycle locker means a high security, enclosed lockable space designed to park one bicycle within it.</p>
bicycle rails and bicycle lockers	<p>Bicycle rails and bicycle lockers must:</p> <ul style="list-style-type: none"> • not contravene any condition of any development consent or complying development certificate applying to the development, including for car parking • be within existing, hardstand parking or storage areas of the development, including garaging or a basement, that is not steeper than 1:20 gradient • if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located behind the building line of any road frontage • accessible from a road, driveway or footpath via a bicycle-friendly access path • located clear of vehicular and pedestrian circulation areas (including fire escapes), vehicular parking areas and access to services and other infrastructure • designed to prevent motor vehicles encroaching, such as through separation or a perimeter barrier such as bollards, kerbing, low fencing, pavement marking and delineation • securely fixed, constructed of high security material and smooth with no protruding parts or sharp edges • if the bicycle rail or locker will be used at night time —be provided in an area with existing lighting • if the bicycle rail or locker will be available for use by more than one user— include identification signage. • if the bicycle rail or locker is on land that is subject to the <i>Strata Schemes Management Act 1996</i> or the <i>Community Land Management Act 2021</i>—it must have the prior approval of the owner’s corporation, or the community, precinct or neighbourhood association.
bicycle rails	<p>In addition to the combined development standards above, bicycle rails must:</p> <ul style="list-style-type: none"> • be floor mounted and must not be vertical or mechanised bicycle parking • be at least 1m from any other bicycle rail or locker, any wall, fence or circulation area • where an access aisle is provided between bicycle rails — provide at least 2.8m separation from any bicycle rail across the aisle • allow the frame and the front and rear wheels of a bicycle to be locked by removable locking devices.
bicycle lockers	<p>In addition to the combined development standards above, each bicycle locker must:</p> <ul style="list-style-type: none"> • be made of galvanised or powder coated steel sheet • have a width of at least 1.02m • have a depth of at least 2m • have a height of at least 2m • face an access aisle with a width of at least 2m • have an outward opening, lockable or access controlled door • include shelves or hooks for storing clothing, helmets and other items.

7 Guidelines

We are seeking feedback on two new draft guidance documents. These will support councils when assessing applications for extended trading hours and community events. The documents are appendices to this EIE.

7.1 Guideline for Late Night Hours of Operation for Food and Drink Premises

The 'Guideline for Late Night Hours of Operation for Food and Drink Premises' guides consent authorities, such as councils, when assessing an application to extend trading hours beyond 7pm for certain food and drink premises.

The Guideline (at **Appendix A**) outlines matters for consideration, such as amenity impacts and social and economic benefits. It does not mandate when an application should be refused or approved. The Guideline has been developed in line with the *Environmental Planning and Assessment Amendment (Vibrancy Reforms) Act 2024*.

7.2 Guide to Planning Pathways for Community Events

The 'Guide to Planning Pathways for Community Events' provides information about the planning pathways available for community events on public land or those that involve closures of local streets. It offers a streamlined approach to obtaining approval under the EP&A Act including long-standing development approval for an annual event or development consent for a range of community events on a single site (sometimes referred to as Global Development Approval).

The Guide (at **Appendix B**) is primarily for council staff involved in event approvals but can also be used by event organisers, the community, and stakeholders.



8 Next Steps

The Department invites all interested people and organisations to give feedback on the proposals. We also welcome your ideas on how planning can help to support events, entertainment and cultural activities.

After the exhibition period closes, the Department will publish all submissions on the NSW Planning Portal and consider the matters raised. The Department will prepare a submissions report that summarises the issues raised during public exhibition.

If any issues are not related to planning, we will provide a summary to other government agencies involved in the vibrancy reforms for consideration in their work.

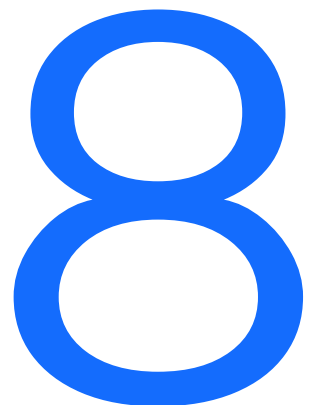
The Department will recommend final planning changes to the Minister for Planning and Public Spaces for the final decision.

Once agreed, we will carry out the changes through a self-repealing State Environmental Planning Policy (SEPP) made under the EP&A Act. The Cultural SEPP will amend existing legislation such as the Codes SEPP. If the amendments are approved, they will come into force in 2025.

How to give feedback

To make your submission, complete the online form or upload your submission on the [Planning Portal](#).

If you have any questions about the EIE, you can email the project team at legislativeupdates@planning.nsw.gov.au





Appendix A:

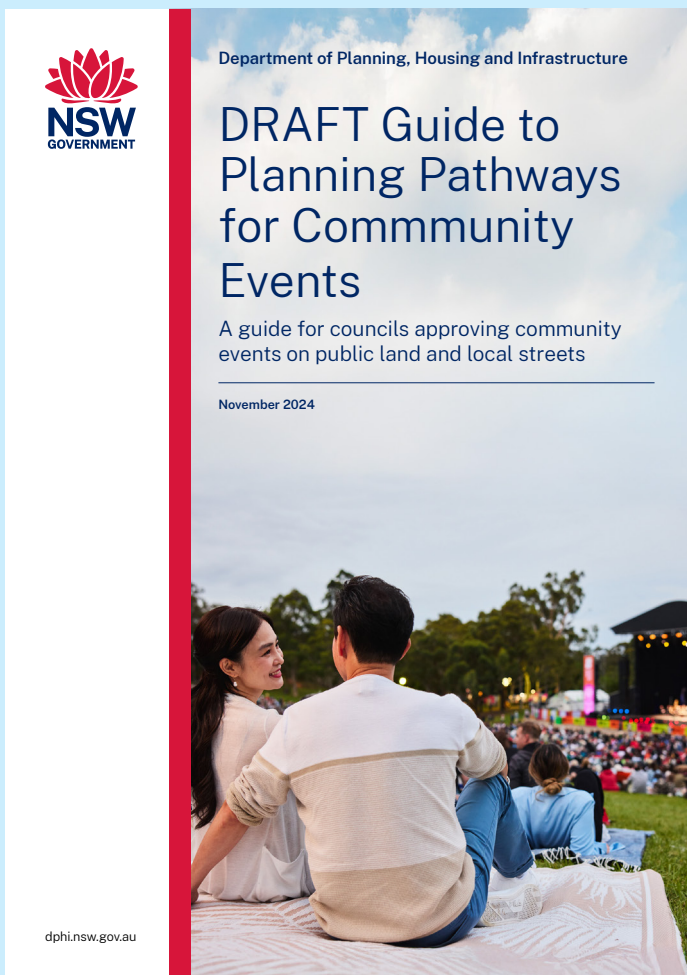
Guideline for Late Night Hours of Operation for Food and Drink Premises



[View and download guide from here](#)

Appendix B:

Guide to Planning Pathways for Community Events



[View and download guide from here](#)

