

ATTACHMENT A

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PLANNING PROPOSAL

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Amendment No. 1 to Sydney Local Environmental Plan
2012 – Schedule 2 Exempt Development Mobile Food
Vending Vehicles (Food Trucks)

June 2012

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Introduction

This Planning Proposal explains the intent of, and justification for, the proposed amendment of *Sydney Local Environmental Plan 2012* (Sydney LEP 2012) to include an entry in Schedule 2 – Exempt Development to allow mobile food vending vehicles or food trucks to operate on Council-owned roadways.

The proposal has been prepared in accordance with Section 55 of *the Environmental Planning and Assessment Act 1979* (the Act) and the relevant Department of Planning Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

Background

The City is developing a Night Time City Policy, informed by extensive research and community feedback. Common themes from the consultation process included concerns about safety, a lack of night time diversity and suggestions for late night dining options such as the food trucks found in New York City, Los Angeles, Bangkok and London.

A diverse food truck culture is emerging internationally. The attractiveness of food trucks in other countries is a combination of great tasting food with unusual flavour mixes, affordable price ranges, a dedication to customer service that generates loyal followers and brightly decorated vehicles that are visually an interesting part of the streetscape.

Vendors differentiate their business with unusual names, strong branding designs, themes (for example vegan, cross-cultural recipes) and menus that capture the diversity and richness of their city's food culture. Many of these international food trucks develop cult followings, guiding their fans to truck locations via social media updates.

Food trucks also enable emerging young chefs and cooks to present innovative new food trends to potential customers in city locations that could not be captured through the traditional model of a café or restaurant. The quality of offerings from food trucks are celebrated through large scale award events – such as the Vendy Awards across the US.

The Sydney Food Trucks 12-month trial is part of the objective of creating vibrant nightlife to take away foods from mobile food vending vehicles (food trucks) located at various locations around the City. A more flexible approach to enable the operation of mobile food vending vehicles (food trucks) on Council owned streets will enable a greater chance for business viability.

This Planning Proposal relates to the operation of mobile food vending vehicles (food trucks) on Council-owned streets. It is proposed to include an entry in Schedule 2 – Exempt Development – in the *Sydney Local Environmental Plan 2012* to allow the operation of mobile food vending vehicles (food trucks) to be exempt development, subject to meeting certain criteria. These criteria will be detailed in a Local Approvals Policy prepared under the *Local Government Act 1993*.

The Planning Controls

Under the provisions of the *Environmental Planning and Assessment Act 1979*, the operation of a mobile food vending vehicle (food truck) currently requires development consent in accordance with Part 4 'Development Assessment' or an assessment under Part 5 'Environmental Assessment' where development consent is not required. The purpose of a Part 5 assessment is to ensure public authorities fully consider environmental issues before they undertake or approve activities that don't require development consent.

Under Part 5 of the *Environmental Planning and Assessment Act 1979*, a determining authority cannot carry out an activity or grant an approval to a development likely to significantly affect the environment, unless it has considered a Review of Environmental Factors (REF) in relation to the proposed activity.

Mobile food vending vehicles or food trucks is defined as a development activity in accordance with the *Environmental Planning and Assessment Act 1979* and therefore requires consent, unless is it exempt development.

Exempt development is defined as development that may be carried out without the need for development consent under Part 4 or for assessment under Part 5 of the *Environmental Planning and Assessment Act 1979*. Development is exempt if it is of minimal environmental impact. However, development that is exempt from development consent is not exempt from any other approval, licence, permit or authority that is required.

A number of issues have risen in relation to undertaking a Part 5 assessment for the operation of mobile food vending vehicles or food trucks on city streets, which is required because approvals are being issued for the use of this land.

The inclusion of Mobile Food Vending as exempt development will eliminate the need for an activity assessment under Part 5 or a development consent under Part 4 in favour of a simpler approvals process.

Mobile food vending as exempt development in the *Sydney Local Environmental Plan 2012* will allow the City to issue Local Government Approvals under Section 68 of the Act without undertaking a Part 5 assessment or granting development consent under Part 4. Section 68 of the *Local Government Act 1993* identifies the activities that require approval of Council including trading on community land. The conditions of an approval issued under Section 68 of the *Local Government Act 1993* will be placed on each operator stipulating matters such as the management, noise restrictions trading hours and health requirements.

Development consent for the use of 9 nominated sites as part of the Food Trucks Trial 2012 has already been granted under the *Environmental Planning and Assessment Act 1979* for a trial period of 12 months. By including mobile food vending vehicles (food trucks) as exempt development, further development applications to extend their operation at the conclusion of the 12 month trial period will not be required for locations on Council-owned streets.

Approximately ten vendors were selected as part of the Sydney Food Trucks Trial 2012 and will rotate between approved locations throughout the City. The mobile food vending vehicles or food trucks have been approved with detailed operational measures contained within a Plan of Management that was prepared to accompany each of the development applications. The Plan of Managements prepared addressed matters such as hours of operation, access, risk

management, trading intervals. The Plans of Management and recommended conditions provide an adequate platform by which to manage noise and activity and will ensure that food trucks have a minimal environmental impact.

This approvals process has demonstrated that the operation of a food truck on Council owned streets will only have a minimal impact on the environment.

The environmental impacts of the operation of food trucks have been considered and subsequently conditions of approval are in place to ensure that the overall environmental impact of mobile food vending vehicles or food trucks is minimal. The operation of food trucks is therefore identified as being of minimal environmental impact and can be carried out without the need for development consent.

Part 1 – Objectives or Intended Outcomes

To enable the operation of mobile food vending vehicles (food trucks) on Council owned streets as exempt development.

Part 2 – Explanation of the Provisions

The Planning Proposal seeks to include an entry in Schedule 2 of *Sydney Local Environmental Plan 2012* to exempt mobile food vending vehicles or food trucks.

It is proposed to amend the Sydney LEP 2012, by inserting a new exempt development category in Schedule 2 as follows:

Mobile Food Vending Vehicles

- (1) Must be located on Council owned streets within existing lawful car parking spaces (excludes classified roads under the *Roads Act 1993*).
- (2) Must be operated in accordance with an approval under Section 68 of the *Local Government Act 1993*.

The Planning Proposal does not seek to amend any other controls in the *Sydney Local Environmental Plan 2012*.

Part 3 – Justification

Section A – Is the planning proposal the result of any strategic study or report

The City is developing a Night Time City Policy, informed by extensive research and community feedback. One of the key aims of OPEN Sydney is to ensure that Sydney's night time economy achieve sustainable economic growth and creates a variety of opportunities for multiple night-time experiences in Sydney.

Open Sydney identified the need to expand the diversity of take away food offerings currently available in Central Sydney and the wider local government area. Mobile food vending vehicles or food trucks will cater for people looking for inexpensive and quality take away dining.

The Sydney Food Trucks Trial emerged from the OPEN Sydney consultation in mid 2011 where many people said they wanted more and better quality late night food options including Food Trucks. The Trial was one of the initiatives included in the OPEN Sydney Discussion Paper which was on exhibition during October to December 2011.

Currently, the food trucks are limited to regular trading on 9 sites for which development consent has been granted. The development application for Pirrama Park, Pyrmont is awaiting determination.

The proposed LEP amendment will assist mobile food vending vehicles or food trucks to operate on Council owned streets within existing lawful car parking spaces. The proposed exemption of mobile food vending premises will promote greater efficiency and more productive use of Council resources in the assessment of minor development proposals

To support the amendment it is also proposed to develop a Local Approvals Policy under the *Local Government Act 1993* which will provide the framework and outline the detailed circumstances and conditions under which the mobile food vending vehicles operate.

Section B – Is the planning proposal consistent with the local council’s community plan, or other local strategic plan

Mobile food vending vehicles as exempt development on Council owned streets is consistent with the objectives of the Sustainable Sydney 2030 Strategic Plan and OPEN Sydney. The Sustainable Sydney 2030 Strategic Plan is the vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress.

One of the key aims of OPEN Sydney is the need to expand the diversity of take away food offerings currently available in Central Sydney and the wider local government area.

Food trucks as exempt development on Council owned streets within lawful car parking spaces provides an opportunity to realise the vision for a vibrant and global city and the realisation of many aspects of Sustainable Sydney 2030 Strategic Plan and OPEN Sydney. Of these, the following Directions are relevant:

Direction	Comment	Compatible ✓/✗
Direction 1 - A Globally Competitive and Innovative City	<p>The City has identified the need to expand the range of inexpensive quality take away food offerings at night. Food trucks will improve the mix and diversity of late night food available in the City and compliment other late night activities. Enabling mobile food vending vehicles (food trucks) on Council owned streets will also extend this opportunity for a diversity of take away food during the day.</p> <p>The Food Trucks trial has been modelled on gourmet food vans that operate in metropolitan areas in the United States such as Manhattan.</p> <p>Mobile food vending vehicles (food trucks) as exempt development is in line with Action 1.5.2 which seeks to undertake continuous improvements to approvals and licensing processes.</p>	✓

<p>Direction 5 - A Lively and Engaging City Centre</p>	<p>The 12 month trial of mobile food trucks within the City will create a vibrant nightlife, part of the initiative of the Night Time Economy Policy. The introduction of mobile food vending vehicles (food trucks) will provide opportunities for multiple night time experiences in Sydney.</p> <p>The mobile food vending vehicles (food trucks) initiative will add to the vibrancy and activity of Sydney during the day and in the evening.</p> <p>Objective 5.4 increase the supply of small scale spaces for retail and small businesses on streets and lanes.</p>	<p>✓</p>
<p>Direction 6 - <i>Vibrant Local Community and Economies</i> recognises and seeks to build on our diverse City communities with diverse lifestyles, interests and needs.</p>	<p>The City has identified the need to expand the diversity of take away food offerings currently available in Central Sydney and the wider LGA. Mobile food vending vehicles (food trucks) will cater for people looking for inexpensive and quality take away food dining.</p> <p>They will also play an important role in activating public spaces, such as streets and public parks.</p> <p>It is considered that mobile food vending vehicles (food trucks) will not have an adverse impact on existing facilities and services, but will further contribute to and enhance the take away food offering available in the LGA.</p>	<p>✓</p>
<p>OPEN Sydney- expand the diversity of take away food offerings in Central Sydney and the wider LGA – identified through the consultation process.</p>	<p>The Sydney Food Trucks Trial realises the vision to provide a diversity of late night take away food options in Central Sydney and the wider LGA.</p> <p>Mobile food vending vehicles will also cater for people looking for inexpensive and quality take away dining. The introduction of mobile food vending vehicles also encourages business innovation.</p> <p>Extending these to on street locations will add to this choice and also contribute to the activation of streets and spaces, creating a safer environment.</p>	<p>✓</p>

Section C – If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished

N/A

Section D – The concurrence of the landowner, where the land is not owned by the relevant planning authority

The proposal seeks to exempt mobile food vending vehicles (food trucks) on Council owned streets on existing lawful car parking spaces.

Section E – Whether the planning proposal will comply with the relevant directions under Section 117 of the Environmental Planning and Assessment Act 1979

The Planning Proposal is consistent with all relevant Ministerial Directions under Section 117 of the *Environmental Planning and Assessment Act 1979*, as demonstrated below:

Section 117 Direction	Comment	Compatible ✓/✗
1.1 Business and Industrial Zones	The planning proposal is not inconsistent with this direction. It will not result in any reduction in business and industrial zones.	✓

Part 4 – Community Consultation

Public Exhibition

This Planning Proposal is to be exhibited for a period of not less than 14 days in accordance with section 4.5 of *A Guide to preparing LEPs*.

Notification of the public exhibition will be:

- on the City of Sydney website; and
- in newspapers that circulate widely in the area (The Sydney Morning Herald and relevant local newspaper)

Information relating to the Planning Proposal will be on display at:

- All customer service centres.