

**ITEM 15. POST EXHIBITION - PLANNING PROPOSAL TO ALLOW MOBILE FOOD VENDING VEHICLES – FOOD TRUCKS AS EXEMPT DEVELOPMENT****FILE NO: S102371****SUMMARY**

The City of Sydney is trialling the operation of 10 food trucks for one year. 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 in Sydney. The Trial was introduced to provide a variety of quality, affordable, take away food options. The operators are able to trade off-street on nine sites where development consent has been granted.

The Trial also envisaged allowing on-street vending locations. Under current legislation, on-street trading of mobile food vending vehicles requires approvals under the *Environmental Planning and Assessment Act 1979* and the *Local Government Act 1993*. The amendment to *Sydney Local Environmental Plan 2012* to include mobile food vending vehicles as exempt development on Council-owned roads will remove the requirement for an approval under the *Environmental Planning and Assessment Act 1979*. The *Local Government Act* provides the City with an appropriate policy framework and tools to regulate food truck activities. Removing the requirement for a development application removes an unnecessary administrative process, reducing costs and time for mobile food operators.

On June 25 2012 and 21 June 2012, Council and the Central Sydney Planning Committee, respectively, endorsed the Planning Proposal to amend *Sydney Local Environmental Plan 2012* to include mobile food vending vehicles as exempt development on Council-owned roads.

The Planning Proposal was submitted to the Department of Planning and Infrastructure, with a request for a Gateway Determination in accordance with section 56(1) of the *Environmental Planning and Assessment Act 1979*. A copy of the Planning Proposal is provided at Attachment A. The Gateway Determination to proceed with the public exhibition of the Planning Proposal was received on 13 July 2012, a copy of which is provided at Attachment B.

The public exhibition period of the Planning Proposal was held from 25 July 2012 to 8 August 2012. The City received no submissions in response to the exhibition. No changes to the Planning Proposal are recommended following public exhibition.

As exempt development, the successful vendors selected as part of the Sydney Food Trucks Trial 2012 will be permitted to trade on the Council-owned roads without the requirement for development consent, subject to an Approval under section 68 of the *Local Government Act 1993* and in accordance with the existing lawful car parking rules and restrictions.

On 18 October 2012, Council approved, for public exhibition, a draft Local Approvals Policy for Mobile Food Vending Vehicles. The draft Local Approvals Policy, prepared in accordance with the *Local Government Act 1993*, provides all of the operational and management requirements for mobile food vendors.

This report recommends that the amendment to *Sydney Local Environmental Plan 2012* to allow mobile food vending vehicles as exempt development on Council-owned roads be forwarded to the Department of Planning and Infrastructure with a request that the amendment be made.

## RECOMMENDATION

It is resolved that:

- (A) the Central Sydney Planning Committee note that no submissions were received in response to the public exhibition of the Planning Proposal: Amendment No.1 to *Sydney Local Environmental Plan 2012 – Schedule 2 Exempt Development Mobile Food Vending Vehicles (Food Trucks)*;
- (B) the Central Sydney Planning Committee endorse the Planning Proposal: Amendment No.1 to *Sydney Local Environmental Plan 2012 – Schedule 2 Exempt Development Mobile Food Vending Vehicles (Food Trucks)*, as shown at Attachment A to the subject report, for submission to the Director-General of the Department of Planning and Infrastructure, requesting a local environmental plan be legally drafted and made, in accordance with Sections 58 and 59 of the *Environmental Planning and Assessment Act 1979*;
- (C) authority be delegated to the Chief Executive Officer to make minor amendments and corrections to the *Planning Proposal: Amendment No.1 to Sydney Local Environmental Plan 2012 – Schedule 2 Exempt Development Mobile Food Vending Vehicles (Food Trucks)*, as shown at Attachment A, to finalise matters prior to submission to the Department of Planning and Infrastructure; and
- (D) the Central Sydney Planning Committee note that a draft Local Approvals Policy for Mobile Food Vending Vehicles is currently on public exhibition, the outcome of which will be reported back to Council early in the new year for consideration prior to the Policy coming into force.

## ATTACHMENTS

**Attachment A:** *Planning Proposal Amendment No.1 to Sydney Local Environmental Plan 2012 – Schedule 2 Exempt Development Mobile Food Vending Vehicles (Food Trucks) June 2012*

**Attachment B:** Gateway Determination for the *Planning Proposal: Amendment No.1 to Sydney Local Environmental Plan 2012 – Schedule 2 Exempt Development Mobile Food Vending Vehicles (Food Trucks)*

**Attachment C:** Resolution of Council of 25 June 2012 and Resolution of the Central Sydney Planning Committee of 21 June 2012

**BACKGROUND**

1. The City is developing a Night Time City Policy OPEN Sydney, informed by extensive research and community engagement. One of the key aims of OPEN Sydney is to achieve sustainable economic growth for Sydney's night-time economy through a variety of night-time experiences. OPEN Sydney identifies the expansion of take away food offerings as one way to contribute to the variety and vibrancy of Sydney's Night-time economy.
2. The Sydney Food Trucks Trial emerged from the OPEN Sydney consultation in mid-2011 where many people wanted more and better quality late night food options, including Food Trucks. The Trial permits 10 vendors to serve hot food, operating under appropriate Plans of Management and health compliance requirements. The Trial also envisaged allowing on-street vending locations.
3. In Central Sydney, development consent is required for the on-street operation of food trucks, as all of the streets are zoned under the provisions of *Sydney Local Environmental Plan 2005*. In areas outside of Central Sydney, the streets are unzoned and the on-street operation of food trucks requires Council to undertake an activity assessment under Part 5 of the *Environmental Planning and Assessment Act 1979*.
4. The recently endorsed, and soon to be gazetted, *Sydney Local Environmental Plan 2012* (the LEP) changes longstanding zoning principles and zones all streets throughout the Local Government Area. Once the Local Environmental Plan is in force, the on-street trading of food trucks will require development consent throughout the Local Government Area.
5. In order to reduce red tape and enable the timely operation of the Trial, a Planning Proposal was prepared to exempt the need for development consent or a Part 5 assessment under the *Environmental Planning and Assessment Act 1979* for the on-street trading of mobile food vending vehicles or food trucks. This will mean that mobile food operators, who wish to trade on streets, will not be required to lodge a development application.
6. On June 25 2012 and 21 June 2012, Council and the Central Sydney Planning Committee, respectively, endorsed the Planning Proposal to amend *Sydney Local Environmental Plan 2012* to include mobile food vending vehicles as exempt development on Council-owned roads. The Planning Proposal seeks to amend *Sydney Local Environmental Plan 2012* by inserting a new exempt development category in Schedule 2 as follows:

*Mobile Food Vending Vehicles*

- a) *Must be located on Council-owned roads within existing lawful car parking spaces (excludes classified roads under the Roads Act 1993).*
  - b) *Must be operated in accordance with an approval under Section 68 of the Local Government Act 1993.*
7. The Planning Proposal was prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Infrastructure Guidelines.

8. As exempt development, the successful vendors selected as part of the Sydney Food Trucks Trial 2012 will be permitted to trade on Council-owned roads without the requirement for development consent, but subject to an Approval under section 68 of the *Local Government Act 1993* and in accordance with the existing lawful car parking rules and restrictions. The matters governing the day to day operation of food trucks on streets will be covered by the Draft Local Approvals Policy for Mobile Food Vending Vehicles currently on exhibition. Matters governing the day to day operation of food trucks on streets will be covered by the Local Approvals Policy currently on exhibition.
9. The Planning Proposal was submitted to the Department of Planning and Infrastructure with a request for a Gateway Determination in accordance with section 56(1) of the *Environmental Planning and Assessment Act 1979*. The Department of Planning and Infrastructure issued the Gateway Determination on 13 July 2013 in respect of the planning proposal to amend the *Sydney Local Environmental Plan 2012* to include mobile food vending vehicles (food trucks) as exempt development. A copy of the Gateway Determination is provided at Attachment B.
10. In accordance with the conditions of the Gateway Determination and sections 56(2)(c) and (d) and 57 of the *Environmental Planning and Assessment Act 1979*, the Planning Proposal was made publicly available for 14 days and the two key government agencies, Transport for NSW (Roads and Maritime Services) and the NSW Food Authority, were invited to comment about the Planning Proposal.
11. The public exhibition period of the amendment to *Sydney Local Environmental Plan 2012* has closed and generated no submissions. It is recommended that the Planning Proposal be forwarded (unamended) to the Minister for making in accordance with section 59 of the *Environmental Planning and Assessment Act 1979*. Under section 59 of the *Environmental Planning and Assessment Act*, the Minister may, following the completion of community consultation, make a local environmental plan with or without variation of the proposal submitted by the relevant planning authority, or may decide not to make the amendment to the plan.

## KEY IMPLICATIONS

### Strategic Alignment - Sustainable Sydney 2030 Vision

12. *Sustainable Sydney 2030* is a 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. This report is aligned with the following SS2030 strategic directions and objectives:
  - (a) Direction 1 - A Globally Competitive and Innovative City – The City has identified the need to expand the range of inexpensive quality take away food offerings at night. Mobile food vending vehicles (food trucks) will improve the mix and diversity of take away food available in the City and will complement other late night activities. The Sydney Food Trucks Trial has been modelled on gourmet food vans that operate in metropolitan areas in the United States, such as Manhattan and Los Angeles.

- (b) Direction 5 - A Lively and Engaging City Centre – The 12 month trial of mobile food vending vehicles (food trucks) within the City will create a vibrant nightlife, which is one of the main objectives of the Night Time Economy Policy. The introduction of food trucks will provide opportunities for multiple night time experiences in Sydney. The Trial is half way through and is providing to be quite successful and popular. The location of food trucks on City streets will also generate activity and, in turn, will bring people to an area, also helping to activate spaces.
- (c) Direction 6 - Vibrant Local Communities and Economies – The 12 month Trial of mobile food vending vehicles (food trucks) within the City of Sydney Local Government Area is part of the Sustainable Sydney 2030 objective of creating a vibrant nightlife and is also an initiative of the Night Time Economy Policy. The mobile food vending vehicle (food truck) initiative is intended to add vibrancy and activity to Sydney at night.

### **Organisational Impact**

- 13. If Council and the Central Sydney Planning Committee endorse the Planning Proposal, Council will not be required to assess development applications or undertake environmental impact assessments in relation to the on street trading of food trucks.

### **Risks**

- 14. If the Planning Proposal to exempt mobile food vending vehicles is not submitted to the Minister for making, then the amendment may not be made within the 6 month time frame prescribed in the Gateway Determination.
- 15. The draft Local Approvals Policy for Mobile Food Vending Vehicles which is currently on exhibition relies on the amendment to include mobile food vending vehicles as exempt development on Council-owned roads. The draft Policy and the Planning Proposal are intended to work together to ensure the successful trial of the Food Trucks.
- 16. Even though this amendment will remove the requirement of a development application, the *Local Government Act 1993* provides the City with an appropriate policy framework and tools to regulate mobile food vending vehicle activities and mitigate potential impacts.

### **Social / Cultural / Community**

- 17. The operation of mobile food vending vehicles on street locations is not a new concept and is gaining popularity across Europe and the United States, where it has created a vibrant street food culture.
- 18. Food Trucks offer the possibility of creating more walkable environments, with a variety of associated benefits. Extending the opportunity for food trucks to operate on Council-owned roads, in addition to providing further choice for people, will also bring mobile food vending closer to people, encouraging walking and cycling.

**Economic**

19. The City undertook a Cost Benefit Analysis on Sydney's Night Time Economy, which was reported to Council in October 2011 as part of the OPEN Sydney: Future directions for Sydney at night and concluded that food-led businesses contributed more than drink-led businesses. Destination NSW plans to promote Sydney as the dining destination of the Asia Pacific region. Food Trucks add a new layer to the food offering in Sydney. Many of the operators are new business owners and the ability to trade on-street locations will assist them and ensure their businesses are successful.
20. This amendment will remove the requirement for an *Environmental Planning and Assessment Act 1979* approval or a development application for on-street trading of mobile food vending vehicles, reducing costs and time for mobile food operators.

**RELEVANT LEGISLATION**

21. *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulations 2000* outline the requirements for amending a local environmental plan.

**CRITICAL DATES / TIME FRAMES**

22. It is recommended that the Planning Proposal to exempt food trucks (unamended) on Council-owned roads under *Sydney Local Environmental Plan 2012* be forwarded to the Minister for making. The timeframe for completing the Local Environmental Plan is six months from the week following the date of the Gateway Determination received on 13 July 2012.

**OPTIONS**

23. Council and the Central Sydney Planning Committee have the option to not proceed with forwarding the Planning Proposal to the Minister for making, however, this is not recommended. The draft Local Approvals Policy will be placed on public exhibition within the next few weeks and relies on the amendment to *Sydney Local Environmental Plan 2012* in order to trade on street.

**PUBLIC CONSULTATION**

24. The exhibition of the Planning Proposal generated no submissions. Following the referral back to the Minister to make, no further public consultation or stakeholder consultation on the amendment to *Sydney Local Environmental Plan 2012* is needed.
25. The draft Local Approvals Policy for Mobile Food Vending Vehicles is subject to a separate public exhibition period and will be reported back to Council for consideration at a later date.

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