



Proposed Sunshine Coast Planning Scheme Amendment

Consultation Report: Special Entertainment Precincts (SEPs)

OVERVIEW OF SUBMISSIONS

Total no. of submissions received: 9

No. submissions in objection: 0

No. of submission in support or provisional support: 8

No. of submission in neither objection or support: 1

Key issues raised in submissions:

- The amendment will help revitalise Nambour and support a night-time economy in the Maroochydore CBD.
- While generally in support, a number of submissions noted some concerns or sought clarification on aspects of the proposed amendment including:
 - Management of anti-social behaviour.
 - The removal of Hospitality Areas and the general impact of SEPs on existing hospitality areas.
 - The removal of "bar" as a self-assessable use in the Tourist accommodation zone and District centre zone.
 - The cost impacts of SEPs noise regulation on rate-payers.
 - The lack of a definition of a "micro-brewery".

INTRODUCTION

The proposed Sunshine Coast Planning Scheme 2014 (Qualified State Interest Amendment) and Planning Scheme Policy (Amendment) – Special Entertainment Precincts (the proposed amendment) was subject to formal public consultation from 15 October to 9 November 2018.

During the public consultation period, a total of 9 submissions were received by Council. No submissions were received in relation to the planning scheme policy amendment.

This consultation report provides a summary of the proposed amendment, considers the key issues raised in submissions and outlines Council's intentions in relation to the proposed amendment following consideration of submissions.

Review of the submissions identified:

- 8 submissions offered provisional or full support for the proposed amendment; and
- 1 submission noted concerns and sought clarification but did not object to the proposed amendment.

OVERVIEW OF PROPOSED PLANNING SCHEME AMENDMENT

Background

Council has prepared a proposed amendment to the *Sunshine Coast Planning Scheme 2014* relating to the designation of special entertainment precincts (SEPs) and the way entertainment uses are regulated more generally.

Council has prepared the proposed planning scheme amendment to assist and support the live music industry on the Sunshine Coast and promote a vibrant day time and night time economy in major centres and tourist areas whilst also protecting residential amenity.

To help achieve this outcome, the proposed planning scheme amendment included the following elements:

- (a) designate part of Nambour's activity centre and part of the Maroochydore City Centre Priority Development Area (PDA) as SEPs under the Local Government Act 2009 (refer to Figure 1 and Figure 2 overleaf);
- (b) remove existing hospitality areas in Maroochydore, Nambour, Caloundra and Mooloolaba activity centres to reduce potential overlap and confusion;
- (c) amend the tables of assessment, development codes, zone codes and relevant local plan provisions for the Principal centre zone, Major centre zone, and parts of the District centre zone, Local centre zone and Tourist accommodation zone to:
 - i. provide for "lower impact" entertainment uses (e.g. restaurants and small bars) across centre zones and key tourist areas to encourage vibrancy and support the night time economy in higher order centres;
 - ii. concentrate "higher impact" entertainment uses (e.g. night clubs and dedicated live music venues) in the designated SEPs and the Ocean Street Food and Music Sub-Precinct;

- iii. provide for micro-breweries in the Principal centre zone and Major centre zone;
- iv. amend the assessment benchmarks relating to noise criteria for venues, surrounding residential development and key mixed use areas;
- (d) amend the Planning scheme policy for the Nuisance code to include advice for achieving the outcomes specified in the Nuisance code, including requirements for noise impact assessments; and
- (e) undertake all necessary consequential amendments to other parts of the planning scheme to give effect to the above changes.

Figure 1 – Proposed Nambour SEP



Figure 2 – Proposed Maroochydore City Centre SEP



CONSIDERATION OF KEY ISSUES

The following section of the report provides a summary of the key issues raised in submissions and responses to these issues.

Support for Nambour and Maroochydore City Centre SEPs

The purpose of the proposed amendment is to facilitate/support the live music industry on the Sunshine Coast through the designation of SEPs in Nambour and the planned Maroochydore City Centre Priority Development Area (PDA).

Four submissions noted the positive contribution the designation of a SEPs would make to the revitalisation of Nambour.

Three submissions noted the benefits the SEP would bring to the night time economy and activity within the Maroochydore City Centre.

The support offered in these submissions is acknowledged and noted; however (as discussed in OTHER MATTERS below), it is recommended that the proposed SEP designation in the Maroochydore City Centre PDA not be progressed at this stage to allow more time to determine the appropriate application of a SEP in the PDA.

Concerns about anti-social behaviour

One submission supported the designation of a SEP in Nambour but was concerned that anti-social behaviour associated with alcohol consumption needs to be managed appropriately.

In response to this concern it is noted that, outside of the formal planning and regulatory processes, the *Liquor Act 1992* enables the designation of “Safe Night Precincts”. Ocean Street is already a designated safe night precinct; however, if the proposed amendment progresses to adoption, it is recommended that a safe night precinct is also investigated for Nambour.

The designation of a Safe Night Precinct will help to address a range of community safety issues associated with late night entertainment areas.

The submitter's concerns are therefore noted but no change to the proposed amendment is recommended in response to this issue.

Removal of Hospitality Areas

Four submissions noted concerns about the impact of removing Hospitality Areas from Caloundra, Mooloolaba and Ocean Street, Maroochydore.

The planning scheme currently identifies “hospitality areas” at Caloundra, Mooloolaba, Maroochydore and Nambour to signal that these areas are intended to accommodate a range of entertainment uses and that a higher level of noise and night time activity may be experienced in these locations.

The existing hospitality areas at Mooloolaba, Caloundra and Ocean Street, Maroochydore, were investigated but not considered appropriate for designation as SEPs, primarily due to existing residential accommodation which is not currently

present at the proposed SEPs at Nambour and the Maroochydore City Centre PDA.

To avoid confusion and overlap with the proposed SEPs, the existing hospitality areas are proposed to be removed and replaced with more general zone/local plan provisions that are intended to have a similar effect.

Specifically, provisions are proposed to be added to the Strategic Framework as well as the Principal centre, Major centre, District centre and Tourist accommodation zone codes. Similar provisions are also proposed to be added in the Caloundra, Nambour, Maroochydore/Kuluin and Mooloolaba/Alexandra Headland Local Plan Codes. These provisions recognise vibrant mixed use activity areas and note that residents and visitors "should expect a reasonable level of ambient noise" associated with living in the area.

The proposed changes clearly communicate the importance of these areas for entertainment and hospitality uses and signal that higher levels of activity and noise should be expected. In doing so, it is considered that the intent and operation of the Hospitality Areas in the planning scheme have been effectively preserved.

It is therefore recommended that no change be made to the proposed amendment in response to this issue.

One submission sought a strengthening of the messaging around expected noise levels in the proposed Ocean Street sub-precinct. The submitter suggested that residents and visitors should be advised to expect a "higher" level of ambient noise as opposed to a "reasonable" level of ambient noise associated with living in the area. This is on the basis that difficult to control noise from the street after venues close may not be considered "reasonable" by complainants.

After consideration of the word "higher" as an alternative to "reasonable", references to a "reasonable" level of noise is still considered appropriate.

This is because a "higher" level of noise does not give any upper bound to the noise level that may be expected by surrounding residents. It is also important to note that the provision refers to what is considered reasonable in the context of a centre or tourist area. It could be easily argued that noise from the street after venues close and patrons leave would be reasonably expected in these areas. This wording therefore provides the appropriate range for what surrounding residents should expect.

The submitter's concerns are therefore noted but no change to the proposed amendment is recommended in response to this issue.

Competition with the Maroochydore City Centre SEP

Further to the issue above, two submissions also raised the concern that the identification of a SEP in the Maroochydore City Centre may impact on the viability of the Ocean Street precinct in the long term.

While not proposed to be designated as a SEP, the Ocean Street area in Maroochydore is proposed to be identified as the Ocean Street Food and Music Sub-precinct. Under the proposed amendment, nightclub entertainment facilities (including live music venues) are encouraged to locate in SEPs and the Ocean Street Food and Music Sub-precinct.

Venues in the Ocean Street sub-precinct will remain subject to the noise conditions of their liquor licence.

The submitters are concerned that the proposed SEP's unfairly advantage new venues in the Maroochydore City Centre.

The advantages of a SEP designation include greater certainty for venues in relation to where they can operate and to what noise level, and protection for future nearby residential development through greater attenuation requirements, as well as general economic benefits associated with growth of the live music industry and night time economy.

Over time, the development of the Maroochydore City Centre can be expected to drive growth and competition in the night-time economy. It is difficult to anticipate how the changing dynamics of hospitality and entertainment uses will play out in Maroochydore in the future. That being said, there is no evidence to suggest that the designation of a SEP would negatively impact on other venues outside of the SEP. Further, there are no potential cost implications for existing venues outside of the SEPs.

Council is committed to supporting a vibrant day time and night time economy in major centres and tourist areas across the Coast whilst also protecting residential amenity. Council does this, in part, by seeking to utilise the appropriate regulatory approach in each local context.

The submitters concerns are therefore noted but no change to the proposed amendment is recommended in response to this issue; however (as discussed in OTHER MATTERS below), it is recommended that the proposed SEP designation in the Maroochydore City Centre PDA not be progressed at this stage to allow more time to determine the appropriate application of a SEP in the PDA.

Levels of assessment for small bars

One submission raised a concern that the proposed amendment requires Code assessment for a "Bar" in the Tourist accommodation zone and District centre zone.

The submission contends that this does not allow flexibility for operators to conduct or start their business without a development application and that this reduces the potential for small scale operations that enliven the area, provide a meeting place, and a service to the community. The submitter believes that development application costs are onerous and that the issuing of liquor licensing would adequately regulate the land use.

In responding to this concern, it is first important to clarify that the current planning scheme provisions only identify a "Bar" as Accepted development in the District centre zone and Tourist accommodation zone where located in a designated Hospitality area.

Second, the proposed amendment removes references to Hospitality areas but retains a Bar as Accepted development in certain locations through proposed amendments to make a Bar Accepted development in the Principal centre zone and Major centre zone as well as (where located in the Mooloolaba/Alexandra Headland Local Plan Area or the Caloundra Local Plan Area) in the District centre zone or the Tourist accommodation zone and in the Local centre zone (where located in the Caloundra Local Plan Area).

In this way, the proposed amendment broadens the area in which Bars are Accepted development. This change is intended to achieve part of the stated purpose of the proposed amendment which is to "allow for diffusion of "lower impact" entertainment uses (e.g. restaurants and small bars) across centre zones and key tourist areas to encourage vibrancy and support the night time economy in higher order centres..."

The District centre zone and Tourist accommodation zone is allocated in numerous locations throughout the region and often in close proximity to residential areas.

The proposed amendment identifies a "bar" as Code assessable development in the District centre zone and in the Tourist accommodation zone (outside of Mooloolaba and Caloundra). This is considered the appropriate level of assessment in these areas as it allows for assessment against the applicable local plan code and other relevant codes.

The submitter's concerns are therefore noted but no change to the proposed amendment is recommended in response to this issue.

Cost to rate-payers

Two submissions raised concerns that implementation of the proposed amendment could incur an on-going cost-burden on rate-payers. The submissions note that only Brisbane City Council has chosen to identify and regulate SEPs and that this may be due to other council's not wishing to take on the financial cost.

In addition to a planning scheme amendment, the implementation of SEPs also requires Council to

make a local law to regulate amplified music noise from premises in a special entertainment precinct. The role of education, compliance and enforcement of the new local law provisions is intended to be undertaken by Environmental Health Officers within Council's Customer Response Branch.

Following adoption of the proposed planning scheme and local law amendments, it is estimated that the additional cost of administering the new local law requirements may be in the order of \$100,000 to \$200,000 per annum, primarily in additional staffing costs. This cost would need to be funded from future budgets. It is envisaged that each venue would need to apply for a yearly permit/licence under new local law provisions. Details in relation to relevant fees are intended to be addressed in a future report to Council to progress the related local law amendments; however, fees are intended to be based on full cost recovery.

The concerns raised by submitters in relation to potential costs have therefore been appropriately considered by Council.

Introduction of a micro-brewery as a type of Medium impact industry

One submission was supportive of council including 'Medium impact industry – micro-brewery' as Code Assessable development within the Principal centre zone and Major centre zone noting that the inclusion enables micro-breweries to contribute to the development of vibrant centres in the region.

The submission is also concerned however, that the interpretation and utilisation of what a micro-brewery might entail and the potential for residual impacts to adjoining and sensitive uses.

The submission recommends that the council include micro-brewery as an administrative definition to ensure that this use does not cause offence to surrounding uses within the Principal centre zone and Major centre zone.

A micro-brewery is a small scale brewery that produces small quantities of beer. Where the micro-brewery is purpose built and the primary use of the premises is the production of beer, the use is defined as 'medium impact industry' under the planning scheme.

Specifically, Schedule 1 (Definitions) of the planning scheme includes industry thresholds that list the activities that fall into Low, Medium and High impact industry and Special industry. A micro-brewery falls under the activity – "Processing, smoking, drying, curing, milling, bottling or canning food, beverages or pet food, less than 200 tonnes per annum."

A brewery activity that exceeds a production of 200 tonnes per annum would fall under the definition of High impact industry and would consequently be Impact assessable anywhere outside of the High

impact industry zone. The planning scheme therefore already includes a definition that limits production to a level that reduces the potential for residual impacts to adjoining and sensitive uses.

Further to this, Code assessment of a Micro-brewery application would include assessment against the relevant zone code and local plan code as well as the Business uses and centre design code and each of the Prescribed other development codes.

Compliance with these codes will ensure that impacts on adjoining uses will be appropriately mitigated or managed. The submitter's concerns are therefore noted but no change to the proposed amendment is recommended in response to this issue.

OTHER MATTERS

The following section of the report provides a summary of other matters that were not specifically raised in submissions, but have been taken into account in the post-consultation review of the proposed amendment.

Code assessable Micro-breweries

During the consultation period, key stakeholders queried whether areas in which micro-breweries are to be identified as Code assessable development could be broadened.

As noted above, the amendment proposes to make a Micro-brewery Code assessable development where located in the Principal centre zone and the Major centre zone.

Council officers have considered whether a Micro-brewery should also be made Code assessable development in the District centre zone, the Tourist accommodation zone and the Tourism zone.

As previously noted, the District centre zone and Tourist accommodation zone are allocated in numerous locations throughout the region and often in close proximity to residential areas. In most of these locations there would likely be significant community concerns about the establishment of a micro-brewery in close proximity to residential neighbourhoods. Impact assessment is therefore considered to be the appropriate level of assessment for a Micro-brewery use in these zones as it requires a development assessment process involving community consultation.

The exception to the above is the District centre zone and the Tourist accommodation zone in the Mooloolaba/Alexandra Headland Local Plan Area. These areas are suitably located to accommodate a Micro-brewery use without creating a significant potential for conflict with surrounding uses. Supporting Micro-breweries in these locations would also be in keeping with part of the purpose of the proposed amendment which is to encourage the vibrancy of key tourist areas.

In regards to the Tourism zone, it is noted that this zone is allocated in limited locations across the region. The purpose of the Tourism zone is to protect and provide for the continued operation of major man made tourist attractions and facilities. This includes Australia Zoo, Aussie World, the Big Cart Track, the Big Pineapple, the Sunshine Castle and Underwater World/Mooloolaba Wharf.

Making a Micro-brewery Code assessable at these locations would create the opportunity for operators to expand and diversify the tourism offer of these businesses.

It is therefore recommended that changes be made to the proposed amendment to make 'Medium impact industry – micro-brewery' a Code assessable use in the District centre zone and Tourist accommodation zone (where within the Mooloolaba/Alexandra Headland Local Plan Area) and within the Tourism zone more generally.

Maroochydore Priority Development Area

In addition to the above changes, it is recommended that the proposed designation of a SEP in the Maroochydore City Centre Priority Development Area (PDA) not be progressed within the proposed planning scheme amendment to allow more time to determine the appropriate application of a SEP in the Maroochydore City Centre PDA.

Given the generally positive submitter responses to the proposed amendment, in particular, support for the Nambour SEP to aid in the revitalisation of Nambour, it is recommended that the balance of the proposed amendment not be delayed by further consideration of aspects relating to the Maroochydore PDA SEP.

Consequently, changes are proposed to the public consultation version of the Sunshine Coast Planning Scheme 2014 (Qualified State Interest Amendment) and Planning Scheme Policy (Amendment) – Special Entertainment Precincts to remove all references to the designation of the SEP in the Maroochydore/Kuluin local plan code.

Other drafting and editorial changes

A small number of editorial changes and drafting refinements have been identified during the post-consultation review of the proposed planning scheme amendment.

It is therefore recommended that these changes be made to improve the efficiency and operation of the proposed amendment.

SUMMARY

It is noted that submissions were generally supportive of the proposed amendment.

Whilst the submissions raise some concerns in relation to the proposed amendment, it is considered

that the responses provided in this consultation report adequately address these concerns.

In response to feedback received during the consultation period, minor changes are proposed to the Table of Assessment to broaden the locations where a Micro-brewery may be established through Code assessment.

It is also proposed not to proceed with the designation of the SEP in the Maroochydore City Centre PDA at this time to allow more time to determine the appropriate application of a SEP in the Maroochydore City Centre PDA.

Finally, a small number of editorial changes and drafting refinements are proposed to improve the efficiency and operation of the proposed amendment.

RECOMMENDATION

That Council proceed with the proposed Sunshine Coast Planning Scheme 2014 (Qualified State Interest Amendment) – Special Entertainment Precincts, subject to the following changes:

- make 'Medium impact industry – micro-brewery' a Code assessable use in the District centre zone and Tourist accommodation zone (where within the Mooloolaba/Alexandra Headland Local Plan Area) and within the Tourism zone more generally;
- not proceed with the proposed SEP designation in the Maroochydore City Centre PDA at this stage, to allow more time to determine the appropriate application of a SEP in the PDA;
- undertake all necessary consequential amendments to other parts of the planning scheme to give effect to the above changes; and
- undertake drafting refinements and editorial changes that have been identified during the post-consultation review of the proposed amendment to improve the efficiency and operation of the proposed amendment.