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***Submission on proposed amendments to the Codes SEPP***

Please find attached feedback from Bega Valley Shire Council staff on proposed amendments to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Due to the timeframe for submissions aligning with the local government caretaker period, the elected Council has not had an opportunity to resolve on this submission.

If you would like to discuss any aspect of our submission, please contact Council's Strategic Planning Coordinator, [Redacted]

Yours faithfully

[Redacted]

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## Submission – Bega Valley Shire Council

### NSW Department of Planning, Industry and Environment Explanation of Intended Effect: Fun SEPP

Council welcomes the opportunity to make a submission on the NSW Department of Planning, Industry and Environment's Explanation of Intended Effect: Fun SEPP which proposes changes to exempt and complying development related to hospitality and arts industries.

Council has reviewed the Explanation of Intended Effect for the Fun SEPP and provides the following response as a submission.

#### 1) Small live music or arts venue as complying development

***Proposal: introduce a complying development pathway to allow a change of use of retail premises to small live music or arts venues, including developments standards and amendments to the Building Code of Australia***

Council comments:

- Significant issues with land use compatibility and council would have limited capacity to influence the location of these venues and manage these interface issues. Compliance and regulatory enforcement issues are likely to be significant.
- 300 attendees too high – potential impacts include: noise, especially when adjoining land uses are residential (above or neighbouring); car parking provision likely to be inadequate as shop/ restaurant requirement far less than entertainment facility or pub requirement. Public transport inadequate in many regional areas.
- If the intent is to support small events, avoid scope creep. It would be unfortunate if the policy had the unintended consequence of negatively impacting larger venues such as existing pubs and theatres/live music venues that are properly and safely set up for these size events.
- Suggest limiting operating hours to outside of standard business hours to mitigate potential car parking issues.
- Suggest later start as 7am is too early
- Suggest operating hours limited to 5pm-10pm Monday to Friday, 10am-10pm Sat and 10am-8pm Sun and PHs
- Suggest including a car parking standard/requirement in regional areas if want to operate during weekday business hours
- Need to include clarification on development application requirements should the venue seek to operate beyond the standard hours specified in the proposed complying development pathway, if patrons are seated for performances, or dancefloors would be permitted
- Could food, beverage/small bar operations concurrent be considered complying development or require a development application? Could a small bar become an ancillary use?
- Suggest that instead of a CDC pathway, DPIE create a new land use definition that is permitted with consent in the same zones that a pub or small bar is permitted with consent. This way, proper consideration could be given to site suitability and likely impacts.

## 2) Change of use to artisan food and drink industry as complying development

***Proposal: introduce a complying development pathway to allow a change of use of premises to artisan food and drink industry in certain circumstances, including development standards***

Council comments:

- In BVSC Light industries are permitted with consent in RU5 Village zone. The CDC pathway to artisan food and drink premises could be used to get around hours of operation requirements imposed by Council on a development application for a light industry.
- Suggest limiting zones where option for CDC change of use application is available (i.e. exclude RU5 Village zone, B2 and B4 zones).
- Regional car parking standard required.
- Need for an acoustic assessment of operations where in proximity to sensitive receivers

## 3) Food trucks and dark kitchens

***Proposal: make some of the COVID emergency measures for food trucks and dark kitchens permanent.***

### Food trucks

Council comments:

- Important that existing approvals required to utilise food trucks on public land under section 68 of the Local Government Act 1993 are maintained.
- Maximum hours of operation without requiring approval should be capped at 10pm due to acoustic concerns where operating on private land and if adjacent to a residential zone.

### Dark kitchens

Council comments:

- Concern around hours of operation of dark kitchens – exemptions from approval should be as far as their current approved DA allows.
- Clarifications should be made about how and when councils are to undertake food safety testing and environmental health checks of dark kitchens.
- Dark kitchens by their very nature de-activate street frontages, particularly where located on commercial high streets. Considerations should be made that would provide that operators of dark kitchens appropriately dress/treat any publicly active frontage to minimise visual impact to the streetscape.

## 4) Temporary events on private land

*Proposal: clarify the exempt development standards for temporary private and community events*

Council comments:

- Do not support for the following reasons:
  - The proposal underestimates the important roles that Councils and event organisers play in managing potential impacts and issues in this space, and a blanket exemption overlooks the complexity of the issues, particularly with regard to site suitability and likely impacts
  - 300 patrons could generate significant impacts including effluent, traffic, car parking, noise, litter, security, deliveries
  - Will toilets be mandated or will patrons have to go in search of public facilities?
  - Use of industrial zoned land for private events may be unsafe given that some industries operate 24 hours per day and there can be significant truck/machinery movements
  - Likely to result in increased compliance issues for Council
- Need to consider:
  - Potential damage to underground public assets
  - Land may be bushfire prone
  - Access to potable water
  - Disability Discrimination Act
- Police should be consulted as they would likely be the first point of contact if any issue arises
- Would support instead a NSW Government issued guideline to running a small event to assist applicants with development applications.