

c2020-173L
OPP--OPPOSITION

LEGISLATIVE COUNCIL

Liquor Amendment (24-hour Economy) Bill 2020

Second print

Proposed amendments

No. 1 **Review**

Page 20, Schedule 1.2. Insert after line 28—

[1A] Clause 8A

Insert after clause 8—

8A Review

- (1) The Minister must conduct a review of the effectiveness of the reduction of fees under clauses 10(2)(c), 12(3A)(c), 13(3) and 14(3A) and the extension of trading hours for dedicated live music and performance venues, including—
 - (a) whether the reduction in fees and extension of trading hours has led to an increase in live music performances or other arts and cultural events on licensed premises, and
 - (b) the impact the reduction in fees and extension of trading hours has had on employment at licensed premises and in the live music performance industry and arts and cultural sectors.
- (2) The Minister must, by 31 March 2025, give a report about the review to the Presiding Officer of each House of Parliament.
- (3) A copy of a report given to the Presiding Officer of a House of Parliament under subclause (2) must be laid before the House within 5 sitting days of the House after it is received by the Presiding Officer.
- (4) This clause is repealed on 30 April 2025.

No. 2 **Base fee element**

Page 20, Schedule 1.2[2] (proposed clause 10(2)(b)), line 39. Omit “10%.”. Insert instead—
10%, or

- (c) for dedicated live music and performance venues—by 80%.
- (3) However, subclause (2)(c) does not apply if, in the Secretary’s opinion, the licensed premises do not have a market orientation towards live performances, the arts or cultural events and endeavours.
- (4) Subclause (2)(c) ceases to have effect on 31 December 2024.

(5) Subclauses (2)(c), (3) and (4) and this subclause are repealed on 30 April 2025.

No. 3 **Trading hours risk loading element**

Page 21, Schedule 1.2, line 39. Omit “10%.”. Insert instead—

10%, or

(c) for dedicated live music and performance venues—by 80%.

[9A] Clause 12(6)–(8)

Insert after clause 12(5)—

(6) However, subclause (2)(c) does not apply if, in the Secretary’s opinion, the licensed premises do not have a market orientation towards live performances, the arts or cultural events and endeavours.

(7) Subclause (3A)(c) ceases to have effect on 31 December 2024.

(8) Subclauses (3A)(c), (6) and (7) and this subclause are repealed on 30 April 2025.

No. 4 **Definition of dedicated live music and performance venue**

Page 26, Schedule 2.2[1] (proposed clause 123), lines 17–22. Omit all words on those lines.

No. 5 **Definitions**

Page 34, Schedule 4.1[1]. Insert after line 5—

dedicated live music and performance venue—see section 3A.

No. 6 **Definition of dedicated live music and performance venue**

Page 34, Schedule 4.1. Insert after line 6—

[1A] Section 3A

Insert after section 3—

3A Meaning of dedicated live music and performance venue

For section 12A, *dedicated live music and performance venue* means public entertainment premises to which an on-premises licence relates, other than the following—

(a) a cinema,

(b) a karaoke bar,

(c) a facility that is regularly used for adult entertainment of a sexual nature.

No. 7 **Live music**

Page 35, Schedule 4.1. Insert after line 6—

[10A] Section 45 Decision of Authority in relation to licence applications

Insert after section 45(6)—

(7) In deciding whether or not to grant a licence, the Authority must consider whether, if the licence were granted, it would provide employment in, or other opportunities for, any of the following—

(a) the live music industry,

(b) the arts sector,

(c) the tourism sector,

(d) the community or cultural sector.

[10B] Section 48 Community impact

Omit "application." from section 48(1)(b). Insert instead—

application, and

- (c) whether the granting of the application would provide employment in, or other opportunities for, any of the following—
 - (i) the live music industry,
 - (ii) the arts sector,
 - (iii) the tourism sector,
 - (iv) community or cultural sector.

No. 8 Complaints

Page 36, Schedule 4.1[7], lines 22 and 23. Omit all words on those lines. Insert instead—

- (6) This section does not apply to a complaint if—
 - (a) it is a complaint of a type prescribed by the regulations, and
 - (b) the local consent authority for the licensed premises has—
 - (i) a local plan to deal with complaints of that type, and
 - (ii) has, by written notice given to the Secretary, notified the Secretary that it will be dealing with complaints of that type.

No. 9 High risk venues

Page 36, Schedule 4.1. Insert before line 24—

[17A] Section 116B Interpretation

Insert after section 116B(4)—

- (4A) However, the Secretary, when designating premises as a high risk venue, must not take into account the presence of a dance floor or area ordinarily used by patrons for dancing.

No. 10 Strategic Liquor Licensing Advisory Council and live music

Page 39, Schedule 4.1. Insert after line 7—

[25A] Part 10A

Insert after Part 10—

Part 10A Strategic Liquor Licensing Advisory Council

152A Establishment

The Strategic Liquor Licensing Advisory Council is established.

152B Functions

The functions of the Strategic Liquor Licensing Advisory Council are to advise the Minister about—

- (a) ways of achieving the objects of this Act, and
- (b) health and public policy relating to alcohol harm and its community impacts, and
- (c) the liquor industry and related employment issues, and
- (d) the impact of liquor licensing on the live music industry and the arts and cultural sectors, and
- (e) other matters referred to the Council by the Minister.

152C Membership

- (1) The Strategic Liquor Licensing Advisory Council is to consist of the following members appointed by the Minister—
 - (a) a Chairperson,
 - (b) the other members the Minister considers have the appropriate experience or skills to be members.
- (2) A member holds office for the period, not more than 5 years, stated in the instrument of appointment and is eligible for reappointment.
- (3) The Minister may remove a member from office at any time.

152D Procedures

Subject to section 152E, the Strategic Liquor Licensing Advisory Council may decide its own procedures.

152E Advice

The Strategic Liquor Licensing Advisory Council—

- (a) is not required to achieve consensus on the advice it provides to the Minister, and
- (b) may provide diverse views to the Minister on matters it considers, and
- (c) must have regard to any relevant liquor accords in providing its advice to the Minister.

[25B] Section 155

Insert after section 154—

155 Authority to have regard to certain matters

In exercising its functions under this Act, the *Gaming and Liquor Administration Act 2007* or the *Registered Clubs Act 1976*, the Authority is to consider the availability of employment opportunities for musicians.

No. 11 **New development consent process**

Page 39, Schedule 4.1. Insert after line 13—

[26A] Section 163

Insert after section 162—

163 Reporting on licensing and planning alignment

- (1) The Parliament considers it a priority to—
 - (a) streamline the process for obtaining development consents under the *Environmental Planning and Assessment Act 1979* and licences under this Act for proposed licensed premises, including providing a single, integrated application process under the *Environmental Planning and Assessment Act 1979* and this Act for licensed premises, and
 - (b) develop further licensing incentives to encourage licensed premises to program live entertainment including—
 - (i) events at which one or more persons are engaged to play or perform live or pre-recorded music, and
 - (ii) performances at which the performers, or some of the performers, are present in person.

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- (2) The Minister must, jointly with the Minister responsible for administering the *Environmental Planning and Assessment Act 1979*, establish a process to address Parliament's priority as set out in subsection (1)(a).
 - (3) The Minister must also develop incentives, to address Parliament's priority as set out in subsection (1)(b), including, for example, additional extended trading hours or reduced fees.
 - (4) The Minister must, within 6 months after the commencement of this section, give a report to the Presiding Officer of each House of Parliament about the Minister's progress in addressing each of the priorities set out in subsection (1).
 - (5) A copy of a report given to the Presiding Officer of a House of Parliament under subsection (4) must be laid before the House within 5 sitting days of the House after it is received by the Presiding Officer.

No. 12 **Special COVID-19 pandemic provisions**

Page 39, Schedule 4.1. Insert before line 14—

[26B] Part 12

Insert after Part 11—

Part 12 Special provisions relating to COVID-19 pandemic

163 Purpose

The purpose of this Part is to introduce temporary measures during the period of the COVID-19 pandemic to allow local councils to encourage the use of outdoor space for outdoor dining and performance to assist with social distancing measures.

164 Definitions

In this Part—

area, for a local council, means the area for which the local council is constituted.

classified road has the same meaning as in the *Roads Act 1993*.

footway has the same meaning as in the *Roads Act 1993*.

local council means a council under the *Local Government Act 1993*.

prescribed period means the period—

- (a) starting on the commencement of this section, and
- (b) ending on the day that is 12 months after the commencement.

public open space has the same meaning as in the *Roads Act 1993*.

roads authority has the same meaning as in the *Roads Act 1993*.

165 Local councils to have temporary powers to encourage use of outdoor space

- (1) During the prescribed period—
 - (a) a local council may decide, by notice published on its website—
 - (i) to temporarily allow the use of a footway or public open space associated with any of the following to be used as an outdoor dining area, extension of foyer space or a performance space—

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- (A) licensed premises or other lawful food and drink premises,
 - (B) entertainment, arts or cultural venue, or
 - (ii) to temporarily allow parking spaces within the local council's area to be used as an outdoor dining area, extension of foyer space or performance space, or
 - (iii) to temporarily close a road, for which it is the roads authority, for use as an outdoor dining area, extension of foyer space or performance space, or
 - (iv) to temporarily close a classified road, with the concurrence of Transport for NSW, for use as an outdoor dining area, extension of foyer space or performance space, or
 - (v) to temporarily vary a development consent or a development consent condition to allow outdoor performance, and
 - (b) if the council allows use of pathways, public open space, roads or other premises for a purpose mentioned in paragraph (a), the use is taken to be exempt development specified for the purposes of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- (2) A local council may make a decision referred to in subsection (1) only if the council has—
 - (a) given the Minister at least 7 days notice that the council wants to trial outdoor dining and performance to assist with social distancing measures and invited the Minister to respond to the proposal, and
 - (b) given 7 days notice of its intention to make the decision—
 - (i) by publishing a notice about the proposed decision on the council's website, and
 - (ii) to the following persons—
 - (A) if the proposed decision relates to licensed premises—the Authority and the Commissioner of Police,
 - (B) if the proposed decision relates to a road for which the council is the roads authority—the Commissioner of Police and Transport for NSW,
 - (C) if the proposed decision relates to a classified road—the Commissioner of Police and Transport for NSW, and Transport for NSW has agreed to the road closure.
- (3) A decision referred to in subsection (1)—
 - (a) has effect subject to a provision of an Act, regulation or other instrument that provides for noise attenuation for licensed premises or other premises, and
 - (b) has effect for the purposes of sections 126 and 127 of the *Roads Act 1993* as if it were an approval granted under section 125 of that Act, and
 - (c) has effect despite any provision of the *Roads Act 1993*, the *Transport Administration Act 1988* or another Act, or a regulation or instrument made under an Act, that requires local councils to submit traffic management plans or consult with local traffic committees.

166 Repeal of Part

This Part is repealed at the beginning of the day that is 12 months after the day it commences.

No. 13 **Meaning of sound and noise**

Page 41, Schedule 4.2. Insert before line 6—

[1A] Clause 3 Definitions

Insert after clause 3(1)—

- (1A) For the purposes of this Regulation, references to *sound* and *noise* are taken to have the same meaning.

No. 14 **Sound emissions**

Page 47, Schedule 4.2[20] (proposed section 130A), lines 1 and 3. Omit “noise” wherever occurring. Insert instead “sound”.

No. 15 **Special entertainment precincts**

Page 47, Schedule 4. Insert after line 9—

4.2D Local Government Act 1993 No 30

[1] Chapter 8, Part 3

Insert after section 201—

Part 3 Special entertainment precincts

202 Special entertainment precinct

- (1) This section is about establishing a special entertainment precinct.
- (2) A *special entertainment precinct* is an area in which—
 - (a) amplified music that is played in the area is regulated by or under a law other than the *Liquor Act 2007*, and
 - (b) requirements about noise attenuation apply to certain types of development in the area, and
 - (c) dedicated live music and performance venues are authorised to trade for an additional 30 minutes under the *Liquor Act 2007*, section 12A.
- (3) A council may establish a special entertainment precinct in its area by amending its local environmental plan to identify the special entertainment precinct.
- (4) A special entertainment precinct may consist of—
 - (a) a single premises, or
 - (b) a precinct, streetscape or otherwise defined locality in the council’s area.
- (5) If a council establishes a special entertainment precinct, the council must—
 - (a) prepare a plan for regulating noise from amplified music from premises in the special entertainment precinct and publish it on the council’s website, and
 - (b) notify the following persons about the special entertainment precinct including, for example, by notice published on its

website or a notation on planning certificates for land in the precinct—

- (i) residents living in the area,
- (ii) persons moving into the area.

(6) In this section—

dedicated live music and performances venue has the same meaning as in the *Liquor Act 2007*.

planning certificate means a certificate under section 10.7 of the *Environmental Planning and Assessment Act 1979*.

203 Minister's guidelines

- (1) The Minister may, by notice published on the Department's website, issue, adopt or vary guidelines about—
 - (a) the establishment of special entertainment precincts, and
 - (b) the operation, revocation or suspension of special entertainment precincts.
- (2) A council must act in accordance with a guideline under subsection (1) in exercising its functions under this Part.

No. 16 Long title

Omit “and to make miscellaneous amendments to the Act and regulation”.

Insert “to make miscellaneous amendments to that Act and regulation; and for other purposes”.