

**Supplementary
Submission
No 656a**

SYDNEY'S NIGHT TIME ECONOMY

Organisation: Live Music Office

Date Received: 30 August 2019

The Chair,
Joint Select Committee on Sydney's Night Time Economy,
Parliament House, Macquarie Street,
Sydney NSW 2000.

NightTimeEconomy@parliament.nsw.gov.au

RE: Joint Select Committee on Sydney's Night Time Economy

Further to our previous submission to this Inquiry, the Live Music Office would like to update the Committee on recent developments and also respond to evidence provided through Committee hearings.

In the Legislative Assembly for the ACT on 31 July 2019 the following Noise Abatement Notice of Motion was introduced by the Member for Brindabella, Mark Parton MLA¹.

That this Assembly:

(1) notes the:

- (a) importance of live music and other live entertainment forms to the character and life of the nation's capital;
- (b) contribution live entertainment makes to creating a sense of community, cultural experience and cultural identity;
- (c) Government's objective to rapidly expand village centres and population density along the Northbourne Corridor and elsewhere;
- (d) importance of these centres having access to complementary entertainment venues and leisure precincts;
- (e) beneficial contribution made by local entertainment to business growth, employment, tourism and the wider ACT economy; and
- (f) constraints imposed on the ability of venues to provide live entertainment and particularly live music due to noise restrictions applied across business districts and town centres;

(2) further notes the:

- (a) numerous reviews, studies and reports on the potential development of live music and the night time entertainment economy; and
- (b) various recommendations made to address planning solutions and more reasonable noise level emissions and abatement strategies; and

(3) calls on the Government to:

- (a) designate specific areas and precincts around the ACT as entertainment zones;
- (b) provide flexibility in allowable noise levels in these zones;
- (c) introduce order of occupancy laws in designated entertainment zones; and
- (d) increase the standards and requirements for noise insulation and abatement for new buildings in designated precincts

¹ Legislative Assembly for the ACT; 31 July 2019. Noise Abatement Notice of Motion - Member for Brindabella, Mark Parton MLA.

The following story in the Music Network: *Canberra pushes for entertainment precincts to save music venues* – reported that:

The three major parties in the Assembly – the Libs, Greens and Labor – agreed with the motion’s additional requests to allow flexible noise levels in these areas, introduce order of occupancy laws (which would protect venues from complaints by new neighbours) and increase the level of “standards and requirements for noise insulation and abatement for new buildings in designated precincts.”

The government must provide a plan by October 31 and start delivering by June 2020².

It is our view that the issues and response tabled in the ACT Assembly through this notice of motion are of relevance to this Inquiry and the ongoing discussions for the Sydney CBD, as to how best to manage expectations and land use for a creative and sustainable night time economy.

Land use conflict between venues, businesses and any adjacent residential development zoned within night time economy areas will continue to be a risk in NSW until better approaches can be achieved.

The Live Music Office has extensive experience in working with tiers of government across Australia in developing measures to reduce land use conflict for live music venues as well as supporting night time economic development.

It is the view of the Live Music Office that Sydney evolve to a hybrid instrument which would be referred to as:

- a) Venue Overlay;
- b) Night Time Economy Overlay; or
- c) Entertainment Overlay

With the development of an ‘overlay’ Sydney can then incorporate a coordinated hybrid response required to achieve the desired outcomes, once the principle has been established, including residential design standards, venue operation, zoning and licensing.

These could also include:

- Order of Occupancy (NSW Liquor Act 2007)
- s.109 certificates (Wollongong, 2014)
- Special Entertainment Precincts (Brisbane 2006)
- And potentially Agent of Change (City of Sydney, 2019)

In our view, this would also be supported by the associated recommendation from last year’s music and arts economy inquiry, and be an important insurance policy against the sole use of agent of change which does not take into account the leasing arrangements of existing live music venues in the Sydney area, for example;

² The Music Network, Christie Eliezer, 6 August 2019: *Canberra pushes for entertainment precincts to save music venues*.

Recommendation 39 - That the NSW Department of Planning and Environment investigate adopting a hybrid planning model to reduce land use conflict and support cultural activities in New South Wales by:

- amending the objects of the *Environmental Planning and Assessment Act 1979* to include the protection and promotion of cultural activity, including live music
- adopting an agent of change approach to ensure that new dwellings within 100 metres of established cultural venues, such as live music venues, are required to have sound attenuation measures
- supporting the development of planned entertainment precincts.

With regards to the applicability of the agent of change principle - *specifically for Sydney we must emphasise* - the Live Music Office has previously provided evidence to last year's music and arts inquiry³ that identifies a concern, first and foremost including the leasing of primary purpose live performance venues rather than ownership of the buildings by operators.

With evidence provided to the inquiry by the City of Sydney referencing APRA AMCOS data that identifies a 50% drop in primary purpose live music venues since 2014 from 22 to 11 venues in 2018, and understanding, of course, that many of those remaining are leased and not owned, we once again express our fears for the long term sustainability of the live music industry in greater Sydney, having lost so many venues and with those remaining potentially vulnerable to property value transition, for example.

This concern has been further raised in this Inquiry in evidence from Sydney Fringe Festival Director and CEO Kerri Glasscock⁴:

Mr KEVIN CONOLLY: *You made one comment that I picked up on. You said that you were concerned about the focus on agent of change as a model, which we thought had some merits. Can you elaborate on that concern?*

Ms GLASSCOCK: *Yes. Our concerns are not necessarily the norm or as popular because a lot of people are advocating for agent of change. My concern is just for that reason. Agent of change was created in cities that had a dense population of venues. We know we have lost half our venues in Sydney. We do not have a dense population of venues and my concern in the current real estate market and in the current set-up of Sydney is that agent of change is being set up to benefit developers, because essentially it is a first there first served basis. The only people who can afford to purchase land or purchase space are property owners, not venue owners. Whilst I see the merit in it for an existing venue and developments coming in, we have concerns about it for this particular city because we know that creative businesses rarely choose where they do and they do not own property.*

Once again, the Live Music Office reaffirms our commitment to support the Committee and the NSW Government in developing the best and most relevant approach possible for greater Sydney and NSW.

As stated previously, in my view this would look like a hybrid model/instrument and called a venue overlay or night economy overlay and not 'precinct' or 'agent of change' as the primary terms for the instrument.

³ Live Music Office Submission to: Legislative Council Portfolio Committee No. 6 - Planning and Environment – Inquiry into the Music and Arts Economy in New South Wales.

⁴ Joint Select Committee on Sydney's Night Time Economy, Macquarie Room, Parliament House, Sydney, Monday 12 August 2019, Ms Kerri Glasscock Director and Chief Executive Officer of the Sydney Fringe Festival.

We would also like to reply to evidence from the City of Sydney to the Committee which responds to the Live Music Office submission to last year's music and arts inquiry recommendation for a special liquor licence for live music venues in greater NSW⁵.

***Ms HARRIS:** There was also an issue around a new license for live music venues and I think that's not something we do support because it just adds another layer of complexity.*

Firstly, The Live Music Office acknowledges the great work and investment the City of Sydney has provided for the live music sector, as well as the establishment of their Night Time Advisory Group to provide guidance in developing city policy in areas such as this.

Whilst we acknowledge the City of Sydney has the view that it does not support live music venue liquor licenses, we advocate strongly for this important regulatory instrument to be recognised and progressed, particularly for other metropolitan areas as well as suburban and regional NSW, to better support the development and sustainability of the live music, hospitality and night economy of greater Sydney and NSW.

Further to liquor licensing reform such as this, there is some really ground-breaking work happening not only in Wollongong, but also from Inner West Council with their Complying Development Certificate for Restaurants/Small Bars for example, that collectively demonstrate a wide contribution to better regulation for music industry and night time economy development in NSW.

We greatly appreciate the opportunity to participate in this inquiry. Please don't hesitate to contact the Live Music Office if we can be of further assistance to support the Committee through the inquiry process.

Yours faithfully,

John Wardle
Live Music Office
16 Mountain St, Ultimo NSW 2007, Australia
Locked Bag 5000, Strawberry Hills NSW 2012
P +61 2 9935 7875 F +61 2 9935 7970
E john@livemusicoffice.com.au
W <http://livemusicoffice.com.au/>

⁵ Joint Select Committee on Sydney's Night Time Economy, Macquarie Room, Parliament House, Sydney, on Monday 5 August 2019: Ms Libby Harris, Night Time City Manager, City of Sydney.