

PORTFOLIO COMMITTEE NO.6 - PLANNING AND ENVIRONMENT

THE MUSIC AND ARTS ECONOMY IN NSW

SUPPLEMENTARY QUESTIONS, 26 MARCH 2018

Question No.	Question	Response
1	<p>In your submission you mention the Create in NSW policy framework and the action of working with state government agencies and local government to develop policy and regulatory settings to support continued growth of live music in NSW. Within this area:</p> <p>a. Have you examined the effect of poker machines being installed in hotels and clubs on live music?</p> <p>i. What percentage of revenue do hotels and clubs earn from gambling compared to entertainment and live music?</p> <p>ii. Do you know what percentage of hotels have only a gaming room and no live entertainment?</p>	<p>Create NSW does work closely with several Government agencies and local government in its role in fostering a vibrant arts, screen and culture sector, including the live music sector. Create NSW is also leading the Government’s Night Time Economy Taskforce, and has a broad remit to foster a vibrant, diverse and safe night-time economy. Gambling regulation is administered by Liquor & Gaming NSW.</p> <p>i. Liquor & Gaming NSW advises that it does not collect such information.</p> <p>ii. Liquor & Gaming NSW advises that it does not collect such information.</p>
2	<p>We know that gambling revenue has come to replace the revenue from live music in some cases – would you suggest policy and regulatory changes that would preference live music over gambling in the future?</p>	<p>Liquor & Gaming NSW advises that whether or not a venue provides live entertainment and/or gambling offerings are commercial decisions for the venue operator. Liquor & Gaming NSW further advises that many venues that feature gambling may also choose to provide live music and other forms of entertainment. Liquor & Gaming NSW also observes that industry participants/sectors are aware of the need to diversify their entertainment offering to ensure sustainability and to meet evolving community expectations.</p> <p>Liquor & Gaming NSW notes recent Government reforms to the gaming laws will enable smaller hotels and clubs to lease their gaming-machine entitlements to other venues, providing an opportunity for them to go ‘pokie-free’ and focus on other offerings, such as live music, if they so choose.</p>

Question No.	Question	Response
3	Often pokies rooms have replaced stages and band rooms – will you look into how to transition venues that want to divest from gambling and into live music?	Liquor & Gaming NSW advises that recent Government reforms to the gaming laws will enable smaller hotels and clubs to lease their gaming-machine entitlements to other venues, providing an opportunity for them to go ‘pokie-free’ and focus on other offerings such as live music, if they so choose.
4	For each of the 25 recommendations of the Night Time Economy Roundtable could you please update the committee for each of them as to whether they are: a. Commenced b. In progress, or c. Completed	Five actions have been completed. Twenty actions are in progress. Further details on the status of each action is at Attachment A.
5	Given the Contemporary Music Plan was due last year, where is it up to?	Preliminary consultation has been undertaken with peak stakeholders, including Local Government NSW, the Live Music Office and Music NSW to inform development of a draft project plan and strategy outline. Targeted consultation with these stakeholders will inform the development of the strategy. International research has also been commissioned to identify approaches to culture and placemaking, including consideration of activity being undertaken in cities comparable to Sydney.
6	When will the Contemporary Music Plan be released?	It is anticipated that the Contemporary Music Plan will be completed by the second half of 2018.
7	Based on the consultation that has been completed to date, what are the elements which will make up the Contemporary Music Master Plan?	The elements of the contemporary music plan for NSW will be developed in consultation with relevant stakeholders, with a focus on: <ul style="list-style-type: none"> • Artist development • Industry development • Audience development • Opportunities for strengthening live music in regional NSW • Attracting young people to participate in the live music sector.
8	What consultation has occurred to date on the Contemporary Music Plan? Who has been consulted? Are there any minutes or records of such consultation? If so, could these be tabled?	Preliminary consultation has been undertaken with Local Government NSW, the Live Music office, APRA AMCOS, and Music NSW. No formal minutes or other documents are available from these consultations. However, the information gathered has been used to inform the development of a project plan and the outline of a contemporary music strategy. These documents will now be used to inform further, targeted consultation with peak stakeholders to develop the strategy in full.
9	Has Create NSW met with local government to develop a strategic plan for the music industry in NSW?	Consultation on the Contemporary Live Music Strategy has been undertaken with Local Government NSW.

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10	Where is the Night time economy master plan?	The Masterplan will be completed by the end of 2018.
11	When will it be released?	The timing of the release of the Masterplan will be a matter for the Government to consider.
12	What is the total financial support that is provided to contemporary music from the NSW Government?	\$1,095,805 million has been provided in 2017-18 for contemporary music through Create NSW's Arts and Cultural Development Program. In addition, \$7.6 million has been provided for festivals and organisations which present contemporary music, including the Sydney Festival and Carriageworks.
13	Could you please provide a breakdown of the financial support that the NSW Government provides for contemporary music?	<p>The \$1,095,805 million for 2017-18 includes:</p> <ul style="list-style-type: none"> • \$320,805 to individuals and organisations for the development, production and presentation of contemporary music, • \$50,000 for Heaps Decent, a multi arts organisation, • \$20,000 for the Boomerang Festival, which is held as part of the Byron Bay Blues Fest. • \$455,000 to Music NSW, which includes \$355,000 in devolved funding to enable it to conduct a small grants funding program for individuals and organisations. <p>In addition, funding of \$250,000 approved in 2016-17 was delivered for staging the Live and Local micro music festivals in 2017-18 in Western Sydney and Regional NSW.</p>
14	For each of these programmes, when will the existing funding expire?	Funding referenced in response to questions 12 and 13 are for 2017-18. Eligible organisations and individuals can apply for funding under the Arts and Cultural Development Program for 2018-19 and beyond.
15	Is the Department aware of any consideration of any of the existing programmes or funding for contemporary music being cut?	No.
16	Does the Government plan to increase the funding for contemporary music in the future?	This is a matter for the NSW Government to consider in the context of the budget process.

Question No.	Question	Response
17	How much does the NSW Government spend annually on capital works for cultural institutions that present live music including orchestras, opera, contemporary music and other genres and types of music?	<p>In 2017-18, \$76 million was allocated in capital expenditure to the Sydney Opera House which hosts a range of live music performances, including opera and contemporary music, throughout the year.</p> <p>Significant Government investment is also being undertaken at the Walsh Bay Arts Precinct through the upgrade of arts facilities and performance venues at Pier2/3 and Wharf 4/5 to create a public arts and cultural hub on the waterfront. Walsh Bay is home to several leading musical companies including the Australian Chamber Orchestra, Sydney Philharmonia, Gondwana Choirs and The Song Company.</p> <p>The Government is investing \$207 million in the redevelopment of the Walsh Bay Arts precinct, including \$108 million in 2017-18.</p> <p>The NSW Government is also developing a Cultural Infrastructure Plan for 2025 and beyond as part of its commitment to the arts and cultural sector to be a cultural capital in the Asia Pacific region, and in response to <i>Infrastructure NSW's Cultural Infrastructure Strategy 2016: Advice to Government</i>.</p> <p>Key priorities, such as the \$100 million Regional Cultural Fund, the Walsh Bay Arts and Cultural Precinct and the Sydney Modern project, are already underway.</p> <p>The Cultural Infrastructure Plan will deliver a strategic, long-term and secure approach to investment in cultural infrastructure and help develop distinctive cultural infrastructure and precincts that support creativity, participation and jobs growth.</p>

Question No.	Question	Response
18	How much did the NSW Government spend on classical music including orchestras and opera through the arts budget over the last 5 years including a breakdown of Sydney and regional spend?	<p>Funding of \$39.99 million has been provided to five of the State's Major Performing Arts (MPAs) Companies that present classical music between 2013-14 and 2017-18 through the Arts and Cultural Development Program. This included funding of \$743,729 for regional and other touring during this five-year period for Opera Australia, the Sydney Symphony Orchestra and the Australian Chamber Orchestra.</p> <p>The five MPAs - Australian Chamber Orchestra, Brandenburg Ensemble, Music Viva Australia, Opera Australia and the Sydney Symphony Orchestra, are each based in Sydney. Note: other orchestras and operas across Sydney and regional NSW may also be funded under Create NSW's Arts and Cultural Development Program. However, this program generally reflects the organisations that are funded, rather than the genre of music being funded.</p> <p>In addition, between 2013-14 and 2017-18, a total of \$1.43 million was provided to organisations and individuals through the Arts and Cultural Development Program to support musical performances in regional NSW.</p> <p>In 2017-18, \$909,655 was provided in funding under the Arts and Cultural Development Program for regional musical touring for organisations, including the MPAs.</p>
19	How much did the NSW Government spend on contemporary music through the arts budget over the last 5 years including a breakdown of Sydney and regional spend.	Funding of \$9.84 million has been provided for other music programs, including contemporary music, between 2013-14 and 2017-18. This included funding of \$8.41 million in Sydney and \$1.43 million in regional NSW. Funding of \$150,000 for Live and Local was provided in Western Sydney in 2015-16 and in 2016-17, for Live and Local, \$100,000 was provided to Western Sydney and \$150,000 to regional NSW.

Question No.	Question	Response
20	How much did the NSW Government spend directly on classical music programs including orchestras and opera per capita by state resident through the arts budget each year for the last 5 years? including a breakdown of Sydney and regional spend.	<p>Funding data for classical music programs over this five-year period is not available as the Arts and Cultural Development Program generally reflects the organisations that are funded, rather than the genre of music being funded.</p> <p>However, \$49.84 million was provided across the state to organisations and individuals for music programs, including a total of \$39.99 million provided to five of the State's Major Performing Arts (MPAs) Companies that present classical music between 2013-14 and 2017-18 through the Arts and Cultural Development Program. This included funding of \$743,729 for regional and other touring during this five-year period for Opera Australia, the Sydney Symphony Orchestra and the Australian Chamber Orchestra.</p> <p>Between 2013-14 and 2017-18, a total of \$1.43 million was provided to organisations and individuals through the Arts and Cultural Development Program to support musical performances in regional NSW.</p>
21	How much did the NSW Government spend on contemporary music per capita by state resident through the arts budget each year for the last 5 years? including a breakdown of Sydney and regional spend.	<p>Funding data for contemporary music over this five-year period is not available as the Arts and Cultural Development Program generally reflects the organisations that are funded, rather than the genre of music being funded.</p> <p>However, in 2017-18, funding for contemporary music was provided on the following basis through Create NSW's Arts and Cultural Development Program:</p> <ul style="list-style-type: none"> • \$7.6 million for festivals and organisations which present contemporary music, including the Sydney Festival and Carriageworks. • \$455,000 to Music NSW, which included \$355,000 in small grants funding. • \$320,805 to individuals and organisations for the development, production and presentation of contemporary music. • \$50,000 for Heaps Decent, a multi arts organisation. • \$20,000 for the Boomerang Festival, which is held as part of the Byron Bay Blues Fest. <p>In addition, funding of \$250,000 approved in 2016-17 was delivered for staging the Live and Local micro music festivals in 2017-18 in Western Sydney and Regional NSW.</p>
22	The inquiry received evidence about multiple venues where the presence of mirror balls	No response required

Question No.	Question	Response
23	Does any government agency or authority have a policy which prohibits the presence of mirror balls in venues?	<p>The Department of Planning and Environment (DPE) has advised that it does not have a policy that prohibits the presence of mirror balls in venues. It is unaware of any planning instrument or planning policy that specifies the types of venues permitted or not permitted to have mirror balls, or that specify when a venue may not be permitted to use a mirror ball.</p> <p>Liquor & Gaming NSW is not aware of any agencies or authorities with a stated policy about the presence of mirror balls.</p>
24	In what types of venues are mirror balls permitted, or not permitted?	<p>DPE – see response to question 23</p> <p>Liquor & Gaming NSW notes that the fit out and decoration of a venue is largely a commercial matter for the venue operator.</p> <p>Where the fit out or operation of a venue is inconsistent with its licence, relevant conditions or the NSW liquor laws, Liquor & Gaming NSW may intervene.</p>
25	Under what circumstances might a venue not be permitted to use a mirror ball?	<p>DPE – see response to question 23</p> <p>Liquor & Gaming NSW notes that an example of such a condition imposed on on-premises licences with a primary service authorisation is:</p> <p style="text-align: center;"><i>“The Licensed Premises are not to be themed or operated as a Nightclub. No DJ styled booth, no disco lighting systems and no dance floor area are to be utilised at any time in the premises.”</i></p> <p>Liquor & Gaming NSW acknowledges that it is open to a local court to impose a condition/s as an additional penalty arising from prosecution proceedings. A planning authority may also impose certain conditions under NSW planning laws.</p>

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26	In relation to the examples that were referred to in the inquiry, does any government agency have any additional information that would shed light on these incidents?	<p>DPE – see response to question 23</p> <p>Liquor & Gaming NSW notes that a reference has been made to Goros, a licensed premises in Surry Hills. The venue does not have a condition on its liquor licence restricting the use of mirror balls.</p> <p>Liquor & Gaming NSW reiterates it is open to a licensee to write to Liquor & Gaming NSW to request a review of a licence condition where a licensee submits a relevant condition/s is inappropriate or unnecessary and ought be varied or revoked.</p>
27	Is the Government aware of other instances where mirror balls were the subject of regulatory or enforcement action? Please detail.	<p>DPE – see response to question 23</p> <p>Liquor & Gaming NSW is not aware of other instances where mirror balls were the subject of regulatory enforcement.</p>
28	Does any government agency or authority have a policy which prohibits dancing in venues?	<p>DPE has advised that it does not have a policy that prohibits dancing in venues. It is unaware of any planning instruments or planning policies that regulate the types of venue where dancing is, or is not permitted, or that specify circumstances when dancing may not be permitted in a venue.</p> <p>Liquor & Gaming NSW is not aware of agencies or authorities with a stated policy which prohibits dancing in venues.</p>
29	In what types of venues is dancing permitted, or not permitted?	See response to question 28
30	Under what circumstances might dancing not be permitted in a venue?	See response to question 28

Question No.	Question	Response
31	<p>The Committee received evidence that if a venue played a CD or a television at a certain volume that might be permitted, but that if a musician was employed playing at the same volume that would require an additional approval. Under what circumstances might this be the case? What is the rationale for such a regulation?</p>	<p>DPE has advised that live entertainment is permitted in many types of venues including hotels, registered clubs, cafes, bars and restaurants, without the need for development consent. The provision of live music in other venues may not require additional approval, if live music is ancillary to the approved use of the land.</p> <p>Ancillary development is characterised and explained in the Department’s Planning Circular titled, <i>How to characterise development</i>.</p> <p>Liquor & Gaming NSW notes that the NSW liquor laws do not prohibit live entertainment at licensed premises.</p> <p>In some circumstances, Liquor & Gaming NSW or the Independent Liquor & Gaming Authority may decide to impose conditions on a licence to address a specific risk identified during the application process, or in response to community concerns or under the formal disturbance complaint process under the <i>Liquor Act 2007</i>.</p> <p>All venues in the Sydney CBD precinct are subject to special licence conditions to help reduce alcohol-related violence and anti-social behaviour in the area.</p>
32	<p>Is the Government aware of instances where regulatory conditions have been imposed that restrict certain genres of music? Please detail these.</p>	<p>Liquor and Gaming NSW advises that since its establishment in 2016, it has not imposed conditions that restrict certain genres of music.</p> <p>It is open to a licensee to write to Liquor & Gaming NSW to request a review of a licence condition where a licensee submits a relevant condition/s is inappropriate or unnecessary and ought be varied or revoked.</p>

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33	The Committee has received evidence that some venues have had 'no entertainment' conditions applied as a condition of their licence.	<p>Liquor & Gaming NSW advises that it does not routinely impose conditions restricting the availability of live entertainment at licensed premises. On rare occasions, where a licensed venue is subject to a noise restriction, <i>amplified</i> entertainment may be restricted if it is not operating in compliance with the restriction.</p> <p>Restrictions on the provision of entertainment, however, may be imposed limiting how late entertainment may be provided to help reduce anti-social behaviour, noise and adverse impacts on community amenity (e.g. "No entertainment of any type shall be provided after 12:00 midnight").</p>																																						
34	In the last five years, how many new liquor licence applications have been approved in NSW? Please list this by category of licence. How many of these applications have had a 'no entertainment' condition applied to their licence?	<p>Liquor & Gaming NSW advises that since 1 January 2013, the following types of liquor licences have been approved in total:</p> <table border="1" data-bbox="891 659 1995 1166"> <thead> <tr> <th rowspan="2">Licence Type</th> <th rowspan="2">Licence Count</th> <th colspan="2">Entertainment Conditions</th> </tr> <tr> <th>Prohibited</th> <th>Restricted</th> </tr> </thead> <tbody> <tr> <td>Liquor - club licence</td> <td>6</td> <td>1</td> <td>0</td> </tr> <tr> <td>Liquor - hotel licence</td> <td>68</td> <td>4</td> <td>5</td> </tr> <tr> <td>Liquor - limited licence</td> <td>8,674</td> <td>2</td> <td>46</td> </tr> <tr> <td>Liquor - on-premises licence</td> <td>3,064</td> <td>44</td> <td>152</td> </tr> <tr> <td>Liquor - packaged liquor licence</td> <td>616</td> <td>1</td> <td>0</td> </tr> <tr> <td>Liquor - producer wholesaler licence</td> <td>572</td> <td>6</td> <td>3</td> </tr> <tr> <td>Liquor - small bar licence</td> <td>105</td> <td>13</td> <td>3</td> </tr> <tr> <td>Total</td> <td>13,105</td> <td>71</td> <td>209</td> </tr> </tbody> </table> <p><i>Notes:</i> <i>Prohibited Entertainment Conditions are those where a condition exists that prohibits all forms of entertainment in the venue.</i> <i>Restricted Entertainment Conditions are those where a condition exists that restricts the conduct of entertainment in the venue, such as through limits on the type, location and/or time that entertainment may be conducted.</i></p>	Licence Type	Licence Count	Entertainment Conditions		Prohibited	Restricted	Liquor - club licence	6	1	0	Liquor - hotel licence	68	4	5	Liquor - limited licence	8,674	2	46	Liquor - on-premises licence	3,064	44	152	Liquor - packaged liquor licence	616	1	0	Liquor - producer wholesaler licence	572	6	3	Liquor - small bar licence	105	13	3	Total	13,105	71	209
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35	What does 'no entertainment' mean? Which of the following uses are permitted? Television, radio, live music, a DJ, or dancing?	<p>Liquor & Gaming NSW advises that there is no legislative definition of 'entertainment' in the Liquor Act or Regulation. However, Section 53(13) of the <i>Liquor Regulation 2008</i> defines 'live entertainment' to be</p> <p>(a) an event at which one or more persons are engaged to play or perform live or pre-recorded music, or</p> <p>(b) a performance at which the performers (or at least some of them) are present in person.</p> <p>Also refer to answer to question 33 above.</p>																		
36	Is there a central register of licence conditions for venues across NSW?	<p>The Liquor & Gaming NSW website provides a list of statutory licence conditions for each licence type, as well as examples of discretionary conditions imposed to address a specific risk identified during the application process, or in response to a serious complaint or incident. http://www.liquorandgaming.nsw.gov.au/Pages/liquor/liquor-licences/licence-conditions.aspx</p>																		
37	How many liquor licence applications have been approved since 2014 in NSW, and for what licence categories?	<p>Liquor & Gaming NSW notes that since 1 January 2014, the following types of liquor licences have been approved in total:</p> <table border="1" data-bbox="837 699 2085 1153"> <thead> <tr> <th data-bbox="837 699 1368 746">Licence Type</th> <th data-bbox="1368 699 2085 746">Licence Count</th> </tr> </thead> <tbody> <tr> <td data-bbox="837 746 1368 794">Liquor - club licence</td> <td data-bbox="1368 746 2085 794">4</td> </tr> <tr> <td data-bbox="837 794 1368 842">Liquor - hotel licence</td> <td data-bbox="1368 794 2085 842">40</td> </tr> <tr> <td data-bbox="837 842 1368 890">Liquor - limited licence</td> <td data-bbox="1368 842 2085 890">6,980</td> </tr> <tr> <td data-bbox="837 890 1368 938">Liquor - on-premises licence</td> <td data-bbox="1368 890 2085 938">2,554</td> </tr> <tr> <td data-bbox="837 938 1368 986">Liquor - packaged liquor licence</td> <td data-bbox="1368 938 2085 986">468</td> </tr> <tr> <td data-bbox="837 986 1368 1034">Liquor - producer wholesaler licence</td> <td data-bbox="1368 986 2085 1034">464</td> </tr> <tr> <td data-bbox="837 1034 1368 1082">Liquor - small bar licence</td> <td data-bbox="1368 1034 2085 1082">96</td> </tr> <tr> <td data-bbox="837 1082 1368 1153">Total</td> <td data-bbox="1368 1082 2085 1153">10,606</td> </tr> </tbody> </table>	Licence Type	Licence Count	Liquor - club licence	4	Liquor - hotel licence	40	Liquor - limited licence	6,980	Liquor - on-premises licence	2,554	Liquor - packaged liquor licence	468	Liquor - producer wholesaler licence	464	Liquor - small bar licence	96	Total	10,606
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38	How many licensed premises exist in NSW by number and by category?	<p>Liquor & Gaming NSW notes that as at 17 April 2018, the following types of liquor licences exist within NSW:</p> <table border="1" data-bbox="840 336 2085 783"> <thead> <tr> <th data-bbox="840 336 1370 384">Licence Type</th> <th data-bbox="1370 336 2085 384">Licence Count</th> </tr> </thead> <tbody> <tr> <td data-bbox="840 384 1370 432">Liquor - club licence</td> <td data-bbox="1370 384 2085 432">1,306</td> </tr> <tr> <td data-bbox="840 432 1370 480">Liquor - hotel licence</td> <td data-bbox="1370 432 2085 480">2,122</td> </tr> <tr> <td data-bbox="840 480 1370 528">Liquor - limited licence</td> <td data-bbox="1370 480 2085 528">1,316</td> </tr> <tr> <td data-bbox="840 528 1370 576">Liquor - on-premises licence</td> <td data-bbox="1370 528 2085 576">8,464</td> </tr> <tr> <td data-bbox="840 576 1370 624">Liquor - packaged liquor licence</td> <td data-bbox="1370 576 2085 624">2,553</td> </tr> <tr> <td data-bbox="840 624 1370 671">Liquor - producer wholesaler licence</td> <td data-bbox="1370 624 2085 671">1,610</td> </tr> <tr> <td data-bbox="840 671 1370 719">Liquor - small bar licence</td> <td data-bbox="1370 671 2085 719">94</td> </tr> <tr> <td data-bbox="840 719 1370 783">Total</td> <td data-bbox="1370 719 2085 783">17,465</td> </tr> </tbody> </table>	Licence Type	Licence Count	Liquor - club licence	1,306	Liquor - hotel licence	2,122	Liquor - limited licence	1,316	Liquor - on-premises licence	8,464	Liquor - packaged liquor licence	2,553	Liquor - producer wholesaler licence	1,610	Liquor - small bar licence	94	Total	17,465
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39	How many licensed venues have closed in the Sydney CBD Plan of Management lockouts precinct since February 2014	<p>Liquor & Gaming NSW notes that as at 17 April 2018, the following numbers of licensed premises located in the Sydney CBD or Kings Cross precincts have closed since 1 February 2014:</p> <table border="1" data-bbox="840 336 2085 844"> <thead> <tr> <th>Licence Type</th> <th>Cancelled</th> <th>Surrendered</th> <th>Ceased to Trade</th> <th>Recommended Trade</th> </tr> </thead> <tbody> <tr> <td>Liquor - club licence</td> <td>4</td> <td>3</td> <td>3</td> <td>0</td> </tr> <tr> <td>Liquor - hotel licence</td> <td>7</td> <td>6</td> <td>15</td> <td>12</td> </tr> <tr> <td>Liquor - limited licence</td> <td>2</td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>Liquor - on-premises licence</td> <td>330</td> <td>34</td> <td>60</td> <td>36</td> </tr> <tr> <td>Liquor - packaged liquor licence</td> <td>8</td> <td>5</td> <td>2</td> <td>0</td> </tr> <tr> <td>Liquor - producer wholesaler licence</td> <td>33</td> <td>0</td> <td>1</td> <td>0</td> </tr> <tr> <td>Liquor - small bar licence</td> <td>3</td> <td>0</td> <td>1</td> <td>0</td> </tr> <tr> <td>Total</td> <td>387</td> <td>48</td> <td>82</td> <td>48</td> </tr> </tbody> </table> <p><i>Notes:</i> The high number of 'cancelled' licenses reflects a shift from a perpetual to an annual liquor licence scheme in 2015. Many licences were not being utilised (often for many years) but had never lapsed. In effect, the introduction of an annual fee resulted in an accurate picture of the actual number of operating licences being established. 'Ceased to Trade & Recommence Trade' figures are indicative only. Liquor & Gaming NSW can only quote instances where it has been advised that a venue has ceased (or recommenced) trade.</p>	Licence Type	Cancelled	Surrendered	Ceased to Trade	Recommended Trade	Liquor - club licence	4	3	3	0	Liquor - hotel licence	7	6	15	12	Liquor - limited licence	2	0	0	0	Liquor - on-premises licence	330	34	60	36	Liquor - packaged liquor licence	8	5	2	0	Liquor - producer wholesaler licence	33	0	1	0	Liquor - small bar licence	3	0	1	0	Total	387	48	82	48
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40	How many licensed venues have opened in the Sydney CBD Plan of Management lockouts precinct since February 2014	<p>Liquor & Gaming NSW notes that as at 17 April 2018, the following numbers of licensed premises have opened within the Sydney CBD or Kings Cross precincts since 1 February 2014:</p> <table border="1" data-bbox="840 336 2085 788"> <thead> <tr> <th data-bbox="840 336 1368 384">Licence Type</th> <th data-bbox="1368 336 2085 384">Licence Count</th> </tr> </thead> <tbody> <tr> <td data-bbox="840 384 1368 432">Liquor - club licence</td> <td data-bbox="1368 384 2085 432">0</td> </tr> <tr> <td data-bbox="840 432 1368 480">Liquor - hotel licence</td> <td data-bbox="1368 432 2085 480">0</td> </tr> <tr> <td data-bbox="840 480 1368 528">Liquor - limited licence</td> <td data-bbox="1368 480 2085 528">3</td> </tr> <tr> <td data-bbox="840 528 1368 576">Liquor - on-premises licence</td> <td data-bbox="1368 528 2085 576">208</td> </tr> <tr> <td data-bbox="840 576 1368 624">Liquor - packaged liquor licence</td> <td data-bbox="1368 576 2085 624">1</td> </tr> <tr> <td data-bbox="840 624 1368 671">Liquor - producer wholesaler licence</td> <td data-bbox="1368 624 2085 671">11</td> </tr> <tr> <td data-bbox="840 671 1368 719">Liquor - small bar licence</td> <td data-bbox="1368 671 2085 719">34</td> </tr> <tr> <td data-bbox="840 719 1368 788">Total</td> <td data-bbox="1368 719 2085 788">257</td> </tr> </tbody> </table>	Licence Type	Licence Count	Liquor - club licence	0	Liquor - hotel licence	0	Liquor - limited licence	3	Liquor - on-premises licence	208	Liquor - packaged liquor licence	1	Liquor - producer wholesaler licence	11	Liquor - small bar licence	34	Total	257
Licence Type	Licence Count																			
Liquor - club licence	0																			
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Total	257																			
41	How many exemptions are there for live music venues within the Sydney CBD Plan of Management lockouts precinct to date?	Liquor & Gaming NSW has approved 27 live entertainment exemptions for venues in the Sydney CBD Entertainment precinct and three live entertainment exemptions for venues in the Kings Cross precinct.																		
42	Have Liquor and Gaming NSW or the Independent Liquor and Gaming Authority approved any licence conditions on venues in NSW since 2014 prohibiting live music, musical genres, DJs, dancing, mirror balls or types of musical instruments, and if so, for what venues and what conditions?	<p>Liquor & Gaming NSW notes that some liquor licences have had conditions imposed which restrict or prohibit the conduct of entertainment or certain forms of entertainment (refer to previous responses).</p> <p>These conditions are imposed where there is evidence that they are necessary to reduce the risk of alcohol-related harm or other harms associated with the operation of a licensed venue (such as disturbance to the quiet and good order of the neighbourhood of the licensed premises). These conditions are consistent with the requirements of the <i>Liquor Act 2007</i> that evidence relating to alcohol-related harm and associated issues be considered during the application process.</p>																		

Question No.	Question	Response
43	Are Liquor and Gaming NSW, the Independent Liquor and Gaming Authority or the NSW Police including the Alcohol Licensing Enforcement Command (ALEC) aware of any liquor licence conditions on licensed premises in NSW that prohibit live music, musical genres, DJs, dancing, mirror balls or types of musical instruments, and if so, for what venues and what are the conditions?	Liquor & Gaming NSW refers to the answer to question no.42 above.

Question No.	Question	Response																													
44	How many venues in NSW have liquor licence conditions that prohibit live music, musical genres, DJs, dancing, mirror balls or types of musical instruments, and if so, for what venues and what conditions?	<p>Liquor & Gaming NSW notes that as at 17 April 2018, the following number of licences have conditions that prohibit or restrict the form of entertainment conducted on the premises:</p> <table border="1" data-bbox="840 336 2067 842"> <thead> <tr> <th rowspan="2">Licence Type</th> <th colspan="2">Entertainment Conditions</th> </tr> <tr> <th>Prohibited</th> <th>Restricted</th> </tr> </thead> <tbody> <tr> <td>Liquor - club licence</td> <td>1</td> <td>5</td> </tr> <tr> <td>Liquor - hotel licence</td> <td>7</td> <td>36</td> </tr> <tr> <td>Liquor - limited licence</td> <td>0</td> <td>0</td> </tr> <tr> <td>Liquor - on-premises licence</td> <td>46</td> <td>168</td> </tr> <tr> <td>Liquor - packaged liquor licence</td> <td>1</td> <td>0</td> </tr> <tr> <td>Liquor - producer wholesaler licence</td> <td>6</td> <td>4</td> </tr> <tr> <td>Liquor - small bar licence</td> <td>13</td> <td>2</td> </tr> <tr> <td>Total</td> <td>74</td> <td>215</td> </tr> </tbody> </table> <p><i>Notes:</i> <i>Prohibited Entertainment Conditions are those where a condition exists that prohibits all forms of entertainment in the venue.</i> <i>Restricted Entertainment Conditions are those where a condition exists that restricts the conduct of entertainment in the venue, such as through limits on the type, location and/or time that entertainment may be conducted.</i></p>	Licence Type	Entertainment Conditions		Prohibited	Restricted	Liquor - club licence	1	5	Liquor - hotel licence	7	36	Liquor - limited licence	0	0	Liquor - on-premises licence	46	168	Liquor - packaged liquor licence	1	0	Liquor - producer wholesaler licence	6	4	Liquor - small bar licence	13	2	Total	74	215
Licence Type	Entertainment Conditions																														
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Total	74	215																													
45	Under what conditions might no live music conditions be sought to be applied on licensed premises in NSW including Restaurants and Small Bars through the application, transfer, or variation process?	Liquor & Gaming NSW refers to the answer to question no.33 above.																													
46	How does NSW Planning and Environment characterise televisions in retail businesses from a development perspective?	DPE has advised that the <i>Environmental Planning & Assessment Act 1979</i> regulates the undertaking of development. The presence of a television or piano is not development as defined under the Act, and therefore, it is not regulated by the planning system.																													

Question No.	Question	Response
47	How does NSW Planning and Environment characterise a piano in retail businesses from a development perspective?	See response to question 46 above.
48	If a piano is used in a retail premises once a fortnight for 3 hours each instance in standard trading hours, with 1 person per sq/m, not in a residential area and in accordance with the Protection of the Environment Operations Act, does NSW Planning and Environment characterise this as an ancillary use, recognising it comprises a fraction of the total operating hours of the business. If not, how do we characterise this use?	DPE has advised that a primary consideration in determining if a use is ancillary, is whether it serves the dominant purpose of the land. This relationship cannot be determined from the scenario referred to in the question.
49	Are record stores able to host live entertainment as an ancillary activity?	DPE has advised that a record store or musical instrument store may be able to host live entertainment without obtaining planning approval, if it can be established that the live entertainment is subordinate to and serves the dominant use. The undertaking of the live entertainment use would also need to not contravene any condition of consent.
50	Under what conditions are record stores able to host live entertainment without planning approval?	See response to question 49 above.
51	Are musical instrument stores able to host live entertainment as an ancillary activity?	See response to question 49 above.
52	Under what conditions are musical instrument stores able to host live entertainment without planning approval?	See response to question 49 above.

Question No.	Question	Response
53	Action 2.7 of the December 2016 Government response to the NTE action plan identifies reforms to the Building Code of Australia (BCA) with a delivery time frame of 12 months. What steps did the NSW Government take to consider a submission to the Australian Building Codes Board for the 2019 National Construction Code in September 2017?	<p>DPE has advised that a Proposal for Change to the National Construction Code (which incorporates the Building Code of Australia) was submitted by the Live Music Office to the Australian Building Codes Board (ABCB). This proposal was considered by the ABCB's peak technical advisory group for building matters, the Building Codes Committee (BCC), at its meeting in October 2017. The Department of Planning and Environment represents NSW on the BCC.</p> <p>The BCC resolved to not support the proposal for the 2019 edition of the National Construction Code (NCC) and agreed to refer the proposal and the associated technical justification for further consideration as part of the ABCB's Variation Management Project for NCC 2022. It is anticipated that the proposal will next be considered in detail at the ABCB Variation Reduction Summit in 2019.</p> <p>The Variation Reduction Summit will provide the Australian Building Codes Board and Jurisdictions an opportunity to thoroughly consider and analyse in further detail the technical merits and justification for the amendment to the National Construction Code that was proposed by the Live Music Office.</p> <p>The Department of Planning and Environment (DPE) will continue to monitor the progress of this important project, including consideration as to whether there is a need for NSW to implement measures ahead of the national timeframe. In this regard, NSW is obtaining specialist technical advice on the fire safety, health and amenity impacts of any change.</p>
54	South Australia and Victoria have both introduced exempt development for low impact arts and cultural land use. Will the NSW Government introduce the same approach?	DPE has advised that it is investigating what changes could be made to State Environmental Planning Policy (Exempt and Complying Development) 2008 to facilitate low impact arts and cultural venues.

Question No.	Question	Response
55	<p>The NSW Government initial submission to the inquiry included little comparative information about other jurisdictions policies and approaches, in particular those that support venues and support contemporary music. Such information would be very helpful to the Committee. Will the full Government submission include this information?</p>	<p>The Government's final submission focusses on the opportunities and policy approaches for the NSW music sector within the context of the Inquiry's terms of reference.</p> <p>However, Create NSW does consider approaches taken in other Australian and international jurisdictions when looking at ways to develop a vibrant arts and cultural sector. Create NSW is a member of the Committee for Sydney and its Night Time Economy Steering Group.</p> <p>Create NSW has also consulted with leading international experts in the night time economy. Create NSW sponsored the inaugural Global Cities at Night Electronic Music Festival held in Sydney in November 2017, and met with Mirik Milan, Night Mayor of Amsterdam, about approaches to night time economies from a global perspective.</p> <p>This event also provided the opportunity for Create NSW to engage with key note speakers and presenters to gain insights into global night time economy impacts and trends.</p>
56	<p>In particular, in London, one such policy is that of classifying important venues as "Assets of Cultural Value". How does such a policy work? How applicable would such a policy be in NSW?</p>	<p>This policy has not been considered in detail, however the Government regularly looks to other states and internationally as part of the policy development process. Any consideration of this policy would need to examine NSW commercial, planning and heritage impacts and would involve consultation with stakeholders.</p>
57	<p>The inquiry has received evidence about the multiple agencies involved in regulating noise complaints.</p>	<p>No response required</p>
58	<p>What is the role of the Department of Planning in the regulation and enforcement of noise complaints for venues? What is the legislative basis for this role?</p>	<p>DPE has advised that section 6 of the <i>Protection of the Environment Operations Act 1997</i> provides for two potential Appropriate Regulatory Authorities (ARAs), the EPA or a local council. The Department of Planning and Environment is not an ARA and has a limited role in regulating and enforcing noise complaints from entertainment venues.</p> <p>The Department ensures that venues that operate under a consent granted by the Minister for Planning comply with any noise related conditions of consent. An example of this is certain events subject to State Significant development consent under the <i>Environmental Planning and Assessment Act 1979</i>, such as those held on the forecourt/monumental steps of the Sydney Opera House.</p>

Question No.	Question	Response
59	What is the role of the EPA in the regulation and enforcement of noise complaints for venues? What is the legislative basis for this role?	<p>The Environment Protection Authority (EPA) has advised that it does not have a regulatory or enforcement role for noise from venues, except for noise from major state-owned venues (e.g. SCG, The Domain, Centennial Park, Moore Park).</p> <p>The EPA's website guides users to the responsible organisations for noise complaints from venues (i.e. Liquor & Gaming NSW for licensed premises (for loud music or patron noise) and local councils for (concert facilities).</p> <p>The EPA administers the <i>Protection of the Environment Operations Act 1997</i> and the <i>Protection of the Environment Operations (Noise Control) Regulation 2017</i>, which provide the statutory basis for regulating neighbourhood noise. Councils and Police have statutory tools available to them under the Act and Regulation to take action to control noise from neighbourhood sources where necessary. These powers are all constrained by considerations that must be taken into account before they can be used.</p>
60	What is the role of the Office of Liquor and Gaming in the regulation and enforcement of noise complaints for venues? What is the legislative basis for this role?	<p>Liquor & Gaming NSW administers noise complaints under section 79 of the <i>Liquor Act 2007</i>, which permits complaints to be made if the quiet and good order of the neighbourhood of a venue is being unduly disturbed by the manner of the venue's operation or behaviour of patrons after they leave the venue. Often, general complaints are made about disturbance caused by a venue and Liquor & Gaming NSW will attempt to resolve these matters informally through engagement with the venue and the complainant.</p> <p>A formal complaint may be made under section 79 which is investigated and submissions are sought from all parties, including NSW Police and the relevant local council. Under section 81 of the <i>Liquor Act 2007</i>, when determining a noise complaint, the Secretary may choose to take no further action, issue a warning, or impose conditions on the venue's liquor licence.</p>
61	What is the role of the Department of Local Government in the regulation and enforcement of noise complaints for venues? What is the legislative basis for this role?	<p>The Office of Local Government has advised that it has no role in the regulation and enforcement of noise complaints.</p>

Question No.	Question	Response
62	What is the role of the local government in the regulation and enforcement of noise complaints for venues? What is the legislative basis for this role?	<p>The Office of Local Government has advised that in NSW, noise pollution is regulated through the <i>Protection of the Environment Operations Act 1997</i> (the POEO Act) and the <i>Protection of the Environment Operations (Noise Control) Regulation 2008</i>. This legislation is administered by the NSW Environment Protection Authority, which shares responsibility for enforcing noise control regulations with local councils, NSW Police Force and Roads and Maritime Services.</p> <p>The POEO Act gives councils a range of provisions to control noise within their communities. For example, councils have the power to issue noise abatement directions, either verbally or in writing, to require any offensive noise to stop.</p> <p>Local Councils can also lodge a noise disturbance complaint against a licensed venue under the liquor laws, where it is considered that the quiet and good order of the neighbourhood has been disturbed, which can result in the imposition of licence conditions by Liquor and Gaming NSW. Section 79(3)(c) of the <i>Liquor Act 2007</i> is the legislative basis for taking this action.</p>
63	What is the role of NSW Police in the regulation and enforcement of noise complaints for venues? What is the legislative basis for this role?	<p>NSW Police can respond to and prosecute noise pollution complaints as part of their enforcement powers.</p> <p>Under the Protection of the Environment Operations Act, noise pollution means the emission of offensive noise.</p> <p>The legislative basis for responding to noise complaints is under the <i>Protection of the Environment Operations Act 1997</i>. Sections 217 and 218 of this Act outline the authorisations and responsibilities of various agencies, including the NSW Police Force.</p> <p>Police can also lodge a noise disturbance complaint against a licensed venue under the liquor laws, where it is considered that the quiet and good order of the neighbourhood has been disturbed, which can result in the imposition of licence conditions by Liquor and Gaming NSW. Section 79(3)(b) of the <i>Liquor Act 2007</i> is the legislative basis for taking this action.</p>
64	Other than these agencies, are there any other regulatory authorities involved in the regulation and enforcement of noise complaints for venues?	No

Question No.	Question	Response
65	Who is the lead government agency when it comes to the regulation and enforcement of noise complaints for venues?	<p>Liquor & Gaming NSW notes that noise complaints are often dealt with under the planning laws with local consent authorities and the NSW Police.</p> <p>L&GNSW has regulatory functions where it is alleged the quiet and good order of the neighbourhood are being unduly disturbed, including due to noise arising from the operation of a licensed venue. Section 79 of the the <i>Liquor Act 2007</i> provides for disturbance complaints to be made to the Secretary in regard to the manner in which the business of the licensed premises is conducted, and the behaviour of persons after they leave the licensed premises.</p>

Question No.	Question	Response
66	<p>Under the LIQUOR ACT 2007 - SECT 81 Decision by Secretary in relation to complaint (3) The Secretary is to take the following matters into consideration before making a decision under this section:</p> <p>(a) the order of occupancy between the licensed premises and the complainant,</p> <p>(b) any changes in the licensed premises and the premises occupied by the complainant,</p> <p>(c) any changes in the activities conducted on the licensed premises over a period of time.</p> <p>(a) If a complaint under this process against a live music venue fails, recognising the reasonable context considerations from this avenue, can the complainant then outflank the decision of the secretary by making another complaint against the same venue using the Protection of the Environment Operation Act?</p> <p>(b) If so, what advice does the NSW Government provide to businesses in NSW about how to navigate the regulatory framework, and are there any other avenues that could be used on top of this if the PoEO Act process complaint also fails?</p>	<p>(a) <i>Liquor & Gaming NSW</i> notes that the <i>Liquor Act 2007</i> does not prevent complainants, who have lodged a complaint under section 79 of the Act, from making complaints through other formal or informal channels outside of the provisions of the <i>Liquor Act</i>.</p> <p>The EPA notes that it is unlikely that where a venue is meeting relevant planning or other obligations, that action would be taken under the <i>Protection of the Environment Operations Act 1997</i>. A person can approach council or police regarding noise from a venue and that complaint can be considered through other processes, such as compliance with planning consent requirements or under the <i>Protection of the Environment Operations Act 1997</i>.</p> <p>Under the <i>Protection of the Environment Operations Act 1997</i>, a council can require that noise is controlled when the noise is considered offensive. Court precedent indicates that when determining if noise is offensive, regulatory authorities should consider any consent conditions that already apply to an activity or premises before undertaking regulatory action, as an activity that complies with noise requirements determined through a relevant approval process, such as a planning process is unlikely to be regarded as offensive.</p> <p>It is also relevant to note that there are no fines or penalties for causing ‘offensive noise’ that could be issued to an entertainment venue. In determining if noise is offensive, a council officer should consider the full context of the noise such as its loudness, the time and duration, if the noise is typical for the area and the number of people affected. The EPA provides detailed discussion on these matters in its <i>Noise Guide for Local Government</i>.</p> <p>(b) <i>Liquor & Gaming NSW</i> publishes information for businesses on how to deal with disturbance complaints made under the <i>Liquor Act</i>. The <i>City of Sydney Council</i>, in consultation with <i>Liquor & Gaming NSW</i> and <i>NSW Police</i>, also released a guide for <i>Neighbourhood Disturbance Complaints</i> to assist stakeholders understand their rights and obligations and who to contact.</p> <p>The EPA notes that resolving noise complaints successfully often relies on not just identifying the problem and developing a suitable noise management strategy, but also on managing the complaint process effectively. This is important so that the complainant sees what, if any, action is being taken and has realistic expectations about what the result may be and understands the time it will take to resolve the problem.</p> <p style="text-align: center;">23</p> <p>The EPA provides information around the role of the EPA and other regulatory agencies and works with relevant agencies and councils, on the appropriate use of the relevant statutory requirements. The EPA encourages councils to develop comprehensive local planning policies to avoid conflicts due to noise from all activates and to have practical and reasonable plans in place to manage noise complaints when they</p>

Question No.	Question	Response
67	<p>In South Australia, a complaint against a venue under S106 of the Liquor Licensing Act 1997 may be lodged by—</p> <p>(b) the council for the area in which the licensed premises are situated; or</p> <p>(c) a person claiming to be adversely affected by the subject matter of the complaint.</p> <p>(3) A complaint cannot be made under subsection (2)(c) unless - the complainant is authorised to make the complaint by at least 10 persons who reside, work or worship in the vicinity of the licensed premises; or , the Commissioner is satisfied that the nature or gravity of the complaint is such that it should be admitted despite non-compliance with paragraph (a).</p> <p>(a) If you need 10 people to make a complaint against a venue in South Australia, how many people do you need to make a complaint against an established live music venue in NSW?</p>	<p>Liquor & Gaming NSW notes that under section 79(3) of the <i>Liquor Act 2007</i>, a disturbance complaint against a licensed venue in NSW may be made by:</p> <ul style="list-style-type: none"> a) a person authorised in writing by 3 or more persons residing in the neighbourhood of the licensed premises or a person who is such a resident and is authorised in writing by 2 or more other such residents, b) the Commissioner of Police, c) a person authorised by the local consent authority in relation to the licensed premises, d) a person who satisfies the Secretary that his or her interests, financial or other, are adversely affected by the undue disturbance to which the person’s complaint relates.