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Our ref: OUT18/6590

The Hon Paul Green MLC  
Committee Chair, Portfolio Committee No. 6 – Planning and Environment  
NSW Parliament  
By email: [PortfolioCommittee6@parliament.nsw.gov.au](mailto:PortfolioCommittee6@parliament.nsw.gov.au)

Dear Mr Green

## INQUIRY INTO THE MUSIC AND ARTS ECONOMY IN NEW SOUTH WALES

I refer to your letter dated 9 April 2018. The Office of the NSW Small Business Commissioner (OSBC) thanks you for your questions, and is pleased to provide the following by way of response:

***1) Does the Commissioner have any strategies in place to support small bars and other similar venues to grow their businesses and respond to challenges faced in their industry?***

The Office of the NSW Small Business Commissioner (OSBC), in collaboration with Service NSW, is delivering two key initiatives that will foster the growth of small bars and other businesses in the hospitality industry:

- **Easy to do Business:** Opening a small bar, cafe, or restaurant: Easy to do Business streamlines Government regulatory and administrative processes, supporting prospective businesses to attain the licences and permits they need to open their doors quickly and inexpensively. The first Easy to do Business initiative focused on small bars, cafés, and restaurants. Previously, an applicant seeking to open a small bar, café, or restaurant was required to engage with 13 agencies across every level of Government, and complete up to 48 forms, before commencing trading. With Easy to do Business, applicants instead access a single digital portal and concierge service. This has reduced the average wait time to open a new business from 18 months to less than 90 days, and will save businesses over \$15 million over a five-year period.
- **Outdoor Dining Trial:** Building on the success of Easy to do Business, the state-wide Outdoor Dining Policy is trialling a fast, streamlined, self-assessment process to allow restaurants, cafés and other food based businesses to expand into outdoor dining within two business days. Businesses in the trial locations with an on-premises (restaurant) liquor licence are also able to serve alcohol in their new outdoor dining area through a provisional approval process. The Trial involving nine Local Government Areas commenced in September 2017, and will continue until December 2018. An evaluation period will follow the trial, after which time the OSBC will launch a state-wide Outdoor Dining Policy.

- Easy to do Business – future priorities for policy reform: OSBC is currently conducting extensive research and engagement with councils to identify priority areas for policy research, regulatory reform and application of the Easy to do Business model. Initiatives to grow vibrant night-time economies and support local place activation are a prominent consideration in this work. OSBC surveyed NSW councils on regulatory reform priorities to support small business creation and growth. Respondent Councils, particularly in the Sydney Metropolitan Area, highlighted supporting the night time economy as a reform priority. OSBC is hosting a series of policy roundtables as part of 13 council workshops across NSW to supplement, qualify and add to the survey findings. A key theme of the roundtables has been to analyse the challenges with, and opportunities to foster, a vibrant night time economy.

**2) Does the Commissioner have any strategies in place to assist musicians in their capacity as small/sole business owners to grow their business, build their profile, network or respond to challenges faced in their industry?**

OSBC is engaged in ongoing advocacy to support musicians and other small businesses in the performing arts industry to grow their businesses and respond to other challenges. OSBC is represented on the NSW Government's Night Time Economy Task Force, including its planning and placemaking sub-group; liaises with council representatives; and is consulted on NSW Government initiatives concerning the performing arts industries. In November 2017, OSBC also provided written feedback on the draft NSW Creative Industries Strategy.

OSBC's advocacy in this space has included support for regulatory reform work to facilitate the use of vacant or underutilised buildings as performance spaces, without requiring development consent or further compliance obligations. Reforms to planning regulations could support the temporary use of empty buildings marked for redevelopment or demolition for creative arts purposes, irrespective of the zone applied to the land's permanent use. A reduced regulatory burden could also encourage small businesses – for example, a retail store or hairdresser - to diversify into providing small scale, low impact performance spaces.

**3) Is the Commissioner aware of any government strategies or policies in place to introduce a one-stop licencing process for small venues (incorporating liquor, planning, noise and other regulations)?**

As detailed in our response to question 1), the Easy to do Business initiative has introduced a one stop shop for new small bars to attain the approvals needed to open their doors. In 2018-19, the NSW Government is scaling up Easy to do Business to all Councils in NSW and across the full business lifecycle for cafes, restaurants and small bars, as well as the housing and construction sector. OSBC's Outdoor Dining Policy will also deliver a uniform process to allow businesses with an on-premises liquor licence to offer outdoor dining.

OSBC notes, however, that noise generation is not presently regulated by licensing alone. Currently, three pieces of legislation govern the generation of noise at such venues, including: the *Environmental Planning and Assessment Act 1979* (NSW), *Protection of the Environment Operations Act 1997* (NSW), and *Liquor Act 2007* (NSW). The issue is further addressed in the *Protection of the Environment Operations (Noise Control) Regulation 2017*, and the *Environmental Planning and Assessment Regulations* include detailed provisions

concerning interpretation of the Act. Live performance businesses are also required to comply with any noise-related clauses in their area's Local Environment Plan. Only the *Liquor Act* regulates noise by way of licensing.

In OSBC's submission, this regulatory regime is highly complex, confusing, and difficult to operate in, with the obligations prescribed manifold and sometimes contradictory. For example, the *Protection of the Environment Operations Act* regulates prohibited noise generation with reference to 'offensive noise'. However, the *Environmental Planning and Assessment Act* refers to 'environmental impact' - a discrete and significantly broader concept. The regime also allocates compliance and enforcement responsibilities across multiple authorities: the relevant Council, NSW Police, and Liquor & Gaming NSW.

OSBC therefore advocates for regulatory reform and harmonisation to deliver a single, consistent approach to the regulation of noise generated at all venues. A one-stop licensing approach warrants consideration as a means of achieving this end, and the OSBC would be pleased to work with the relevant agencies to achieve this.

To discuss these issues or our response further, please contact Thomas Mortimer, Advisor, Advocacy and Strategic Projects, on

Kind regards

**Robyn Hobbs OAM**  
**NSW Small Business Commissioner**

~~24~~ April 2018

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