

**Inquiry into the music and arts economy in NSW  
Supplementary questions on notice  
NSW Liquor and Gaming**

**QUESTION –**

1. ***In your evidence you stated: “One was a modest error when talking about has Liquor and Gaming NSW imposed any restrictions or controls on genres of music? We said in our questions on notice that, no, we had not. A further look into that demonstrated that there had been a venue. It was one Avoca-based venue.”***

A: Since its establishment, Liquor & Gaming NSW has only imposed one music genre related condition on a licensed venue. The venue is The Avoca Beach Brewing Company. Details of the condition are included in L&GNSW Answers to Questions on Notice dated 12/09/2018.

The condition was proposed by the applicant on making an application to vary a former ‘no entertainment’ condition that had been imposed on the licence.

2. ***How many venues in NSW have references in their restrictions to a genre of music?***

A: 47, of which 41 were imposed prior to 1 July 2008 by the former Licensing Court or Liquor Administration Board.

3. ***How can Liquor and Gaming NSW claim that “We have no role in regulating musicians as such.” when hundreds of venues have licence restrictions that ban live music or ban entertainment?***

A: The number of venues with live music / entertainment bans is not in the hundreds. A total of 94 venues were identified with bans on live entertainment and/or music. This represents less than one per cent of all NSW liquor licences. Of these 55 are restaurants.

These bans, and other narrower restrictions, will have been imposed over many years in response to specific issues and risks at individual licensed venues.

Before imposing any condition, decision-makers must have due regard to the need to minimise alcohol-related harm and ensure licensed operations contribute to (rather than detract from) the amenity of community life. They must also consider the objects of the Act, which include requiring Liquor & Gaming NSW to regulate consistent with the expectations, needs and aspirations of the community as well as to contribute to the responsible development of related industries including live music, entertainment tourism and hospitality industries.

While it is necessary to carefully review the circumstances and evidence related to each individual file to support an informed view on the appropriateness and merits of any conditions, conditions may have been imposed to respond to legitimate community concerns about undue disturbance arising from specific forms of conduct of live entertainment or music. In other cases, licensees may propose certain conditions themselves in seeking to proactively address risks as well as community concerns around their mode of operation.

If a venue considers a condition to be unreasonable or obsolete, it is always open to the licensee to apply to Liquor & Gaming NSW or the Independent Liquor & Gaming Authority to seek a variation or removal.

**4. Taking some examples, what is the reason for the following licence conditions?**

- ***At the South Dubbo Tavern - "Entertainment is to be confined to solos, duos, small cover bands, and country and western music. No large rock bands."***
- ***The Valley Tavern—jazz, folk and popular music—are the only styles allowed or acceptable.***
- ***At the Wharf Road Restaurant and Bar they are allowed to play compact discs of a soft "rock'n'roll" nature.***
- ***At the Stoned Crow, the type of music played on the premises is to be limited to these genres: jazz and rock'n'roll.***

A: These conditions were imposed prior to 1 July 2008 by the former Licensing Court or Liquor Administration Board, with the exception of The Valley Tavern, which was imposed in February 2009.

Consistent with evidence given at the hearing, it is appropriate and necessary to carefully review the circumstances and evidence contained in each matter to enable an informed view on the merits and underlying reasons of a specific condition.

Liquor & Gaming NSW has requested these specific files from archives so comprehensive review can be conducted. In the absence of reviewing each file Liquor & Gaming NSW can advise that these conditions were imposed either at the grant of a liquor licence or as a result of an investigation of a disturbance complaint and aim to prevent the operation to the liquor licence causing undue disturbance to a neighbourhood from uncontrolled or excessive amplified music.

Liquor & Gaming NSW acknowledges that certain historical licence conditions responding to the circumstances and community expectations at the time, can now be viewed as overly prescriptive, disproportionate, not outcomes focussed and difficult to enforce. Importantly it is open to any licensee to apply to Liquor & Gaming NSW to vary or revoke a licence condition at any time. Where a licence condition has been imposed for many years without any concerns being raised, it is difficult to make a persuasive argument about adverse impacts. In

the alternate where concerns had been flagged about historical licence condition/s and/or an application to vary or revoke a specific condition/s had been refused by Liquor & Gaming NSW this would support an adverse impacts argument.

As a contemporary regulator, with a published Strategic Approach and Regulatory Priorities statement, Liquor & Gaming NSW has been working hard to ensure that conditions imposed on liquor licences either at the time a licence is granted or in response to a formal disturbance complaint are evidence based, proportionate and outcomes focussed. It would be highly unlikely that the conditions such as those referred to in the question would be imposed under the current regulatory approach of Liquor & Gaming NSW.

**5. *Is Liquor and Gaming aware of any research which examines the relationship between music venues and violence?***

A: Liquor & Gaming NSW is aware of limited research which examines the relationship between music venues and violence. That research points to some risks associated with certain types of entertainment in specific circumstances, although it is not conclusive.

Ultimately, however, a decision to impose conditions on a liquor licence relating to the provision of entertainment is informed by, and results from, submissions from the applicant, police, the local council and other local stakeholders. That evidence focuses on the risk of local impacts associated with the liquor licensing proposal.

**6. *Is Liquor and Gaming aware of any research which demonstrates the efficacy of “no entertainment” or “no live music” restrictions on licences and development applications?***

A: The research referred to in Question 5 suggests that conditions relating to entertainment could play a part in helping to reduce the risk of alcohol-related harm. As noted in response to question 5 however, conditions imposed on liquor licences generally respond to issues raised by local stakeholders, and take into account the local circumstances of the licensed premises. Liquor & Gaming NSW is not involved in the imposition of conditions on development applications.

**7. *In relation to the Sydney Fringe festival, could we supply the transcript of evidence and the document which showed the police request to apply a condition of “no dancing, no DJ’s” to Liquor and Gaming and ask them to respond to that information as requested in the hearing?***

A: The Newtown Entertainment Precinct Association, trading as the Sydney Fringe Festival, holds a Limited Licence Multi-Function licence (LIQL550026639) at 5 Eliza St, Newtown (Attachment A).

Liquor & Gaming NSW has not imposed, nor would it impose, conditions to restrict dancing on the licence.

The conditions imposed on this licence are:

- Section 11A of the Liquor Act 2007 applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 4:00AM and 10:00AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
- No drinks commonly referred to shots, shooters, slammers etc - other drinks designed to be consumed rapidly
- A senior Manager is to be on site all times that alcohol is sold or supplied.
- The licensee must conduct the license at all times in accordance with the Plan of Management titled Sydney Fringe Festival 2016 prepared by Kerri Glasscock.

These conditions were proposed by the NSW Police Force and consented to by the applicant (Attachment B).

It is noted that the Sydney Fringe Festival occurs at multiple premises across the inner city of Sydney, including the Sydney CBD Entertainment Precinct. This includes a variety of liquor licence types. Venues located within the Sydney CBD Precinct are currently subject to specific legislated and discrete licence conditions.

**8. *In relation to the position of Liquor and Gaming that we need to decrease the link between alcohol and music, what measures could be taken to encourage non-licenced premises to increase the incidence of music?***

A: Liquor & Gaming NSW sits on the Night Time Economy Taskforce led by Create NSW, where these issues including enlarging the discussion of night time economy beyond an artificial pairing with liquor, and acknowledging the expansive and diverse range of activities and events that contribute to a vibrant and safe night time economy, are under discussion.

**9. *What does Liquor and Gaming NSW consider the definition of “live music” to include?***

A: Under the NSW liquor laws, ‘live music’ is considered in relation to the half-hour live entertainment extension to the 1.30am lock out and 3.00am last drinks for live entertainment venues in the Kings Cross and Sydney CBD Entertainment precincts. Live entertainment is defined to include:

- an event at which one or more persons are engaged to play or perform *live music* or pre-recorded music;
- a performance at which the performers (or at least some of them) are present in person.

Live music, in this context, includes music played or performed live in person. However, the term ‘live entertainment’ also encompasses broader forms of live performance including, for example, a DJ playing or performing using pre-recorded music to create new sounds.

Individual licence conditions may include more expansive definitions of ‘live music’ or ‘live entertainment’, reflecting they have been imposed over many years in response to specific circumstances.

**10. What does Liquor and Gaming NSW consider is the definition of a band?**

A: A ‘band’ is not a defined term in the *Liquor Act 2007*. As such, Liquor & Gaming NSW would apply the ordinary meaning of the word. The Macquarie Dictionary defines as band as ‘a company of musicians constituted according to the kind of music played, usually playing for performance or as an accompaniment to dancing.’

**11. Of the 94 venues with prohibitions and the 575 venues with restrictions on entertainment, could you list the number by licence type?**

A: See table below.

Licence type	No. Ent. Prohibited	No. Ent. Restricted	Total licence nos.
Club Licence	1	33	34
Hotel Licence (incl. General Bars)	17	281	298
Limited Licence	0	2	2
On-premises Licence (see further explanation below)	58	244	302
Packaged Liquor Licence	2	0	2
Producer/Wholesaler Licence	4	7	11
Small Bar Licence	12	8	20
<b>Total</b>	<b>94</b>	<b>575</b>	<b>669</b>

Of the on-premises licences, the majority of the prohibitions and restrictions are imposed on licences with a ‘restaurant’ business class (55 of the 58 prohibitions, and 178 of the 244 restrictions). This reflects that these conditions will often have been imposed as a means to help address the issue of licensed restaurants morphing into higher risk business models, where they run like a bar or nightclub with a more significant focus on selling alcohol than meals.

For example, a restriction may be imposed to prevent a restaurant from being themed or operated as a nightclub, with DJ booths, disco lighting and dance floor areas. L&GNSW encourages these venues to apply for the right licence type if they wish to operate in this manner, so risks can be properly considered in the licensing process (including by the community), the licence granted and associated standard conditions appropriately reflect the risk of the business model, and annual fees payable are commensurate with the risk.

**12. Breakdown of liquor licence numbers by type, and how many on-premises licences have a caterer on other premises authorisation?**

A: See table below.

<b>Liquor licence numbers by licence type, as at 14 September 2018</b> (includes on-premises licences by business type)	
Liquor - club licence	1,296
Liquor - hotel licence : Full hotel	2,019
Liquor - hotel licence : General bar	101
Liquor - limited licence : Multi-function	1,297
Liquor - limited licence : Single-function	13
Liquor - limited licence : Special event	2
Liquor - on-premises licence : Accommodation	692
Liquor - on-premises licence : Adult relaxation entertainment facility	2
Liquor - on-premises licence : Airport	13
Liquor - on-premises licence : Art gallery	6
Liquor - on-premises licence : Bar	66
Liquor - on-premises licence : Catering service	877
Liquor - on-premises licence : Cinema public entertainment venue	46
Liquor - on-premises licence : Clothing Tailor	1
Liquor - on-premises licence : Club activity and support	101
Liquor - on-premises licence : Cooking school	9
Liquor - on-premises licence : Food and beverage outlet	10
Liquor - on-premises licence : Food hall	3
Liquor - on-premises licence : Furniture store	1
Liquor - on-premises licence : Hairdressing salon	12
Liquor - on-premises licence : Health and beauty services	11
Liquor - on-premises licence : Karaoke venue	33
Liquor - on-premises licence : Local product promotion	18
Liquor - on-premises licence : Music venue	3
Liquor - on-premises licence : Other public entertainment venue	105
Liquor - on-premises licence : Public arena and events	9
Liquor - on-premises licence : Public hall	34
Liquor - on-premises licence : Racing facility	38
Liquor - on-premises licence : Restaurant	6,896
Liquor - on-premises licence : Retirement village	20
Liquor - on-premises licence : Social activity and support	9
Liquor - on-premises licence : Sport facility	141
Liquor - on-premises licence : Tertiary institution	70
Liquor - on-premises licence : Theatre public entertainment venue	134
Liquor - on-premises licence : Tourist and cultural precinct	8

Liquor - on-premises licence : Tourist facility	32
Liquor - on-premises licence : Tour operator	3
Liquor - on-premises licence : Vessel	185
Liquor - on-premises licence : Wine bar	30
Liquor - packaged liquor licence	2,553
Liquor - producer wholesaler licence	1,573
Liquor - small bar licence	107
<p><b>Note:</b> It is not possible to sum figures from this report to obtain a total count of licences, as double-counting of some on-premises licences would occur where a licence has multiple business classes (e.g. a public entertainment venue that also operates a restaurant would be counted twice).</p>	



# Independent Liquor & Gaming Authority

*A statutory board established under the Gaming and Liquor Administration Act 2007*

contact.us@liquorandgaming.nsw.gov.au  
www.liquorandgaming.nsw.gov.au

## Key liquor licence details recorded as at 4 October 2018

**Licence number:** LIQL550026639  
**Licence name:** Newtown Entertainment Precinct  
**Licence type:** Liquor - limited licence  
**Licence sub-type:** Multi-function  
**Licence status:** Current  
**Duration:** Unlimited duration  
**Licence start date:** 02/09/2016  
**Licence expiry date:**

### Licensee

**Title:**  
**Surname:**  
**Given name:**  
**Middle name:**  
**Website:**  
**Phone - daytime:**  
**Mobile:** **Fax number:**  
**Email address**  
**Start date:**

### Limited licence owner

**Organisation name:** Newtown Entertainment Precinct  
**ABN:** 16 393 987 277 **ACN:**  
**Y/INC or reg no.:**  
**Phone - daytime:** **Fax number:**  
**Email address:**  
**Website:**  
**Business address:**  
**Postal address:**  
**Start date:**

**Premises**

**Address:** 74-76 Pyrmont Bridge Rd ANNANDALE NSW 2038  
**Phone number:** **Fax number:**  
**Email address:**  
**Website:**  
**LGA:** Inner West Council  
**ABS SLA:**  
**Start date:** 02/09/2016

**Conditions**

Licence conditions imposed by the Liquor Act and Regulation apply. To view a copy of these conditions, go to [www.liquorandgaming.nsw.gov.au](http://www.liquorandgaming.nsw.gov.au)

Additional licence conditions.

**Condition type:** Condition **Condition source:** Authority  
**Reference:** 50  
**Condition:** Section 11A of the Liquor Act 2007 applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 4:00AM and 10:00AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.  
**Start date:** 02/09/2016

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**Condition type:** Condition **Condition source:** Authority  
**Reference:** 3010  
**Condition:** No drinks commonly referred to shots, shooters, slammers etc - other drinks designed to be consumed rapidly  
**Start date:** 02/09/2016

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**Condition type:** Condition **Condition source:** Authority  
**Reference:** 3020  
**Condition:** A senior Manager is to be on site all times that alcohol is sold or supplied.  
**Start date:** 02/09/2016

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**Condition type:** Condition **Condition source:** Authority  
**Reference:** 3030  
**Condition:** The licensee must conduct the license at all times in accordance with the Plan of Management titled Sydney Fringe Festival 2016 prepared by  
**Start date:** 02/09/2016

This licence is subject to a risk-based fee, payable annually. If the fee is not paid on time, the licence will be suspended or cancelled. Visit <https://www.onegov.nsw.gov.au/licencecheck> to find out the status of the licence.

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**From:**  
**Sent:** Wednesday, 31 August 2016 3:31 PM  
**To:**  
**Subject:** FW: URGENT RE: Liquor License Application # 1-3300082801 Sydney Fringe Festival/NEPA [DLM=Sensitive:Law Enforcement (SLE)]

Regarding the limited licence - multi function from the Newtown Entertainment Precinct. Police wish for a couple of conditions please. If these conditions are added there is no objection.

1. No drinks commonly referred to shots, shooters, slammers etc - other drinks designed to be consumed rapidly.
2. A senior Manager is to be on site all times that alcohol is sold or supplied.
3. abide by the Plan of Management supplied with the application, prepared by Kerri Glasscock.

Regards

Sergeant  
Licensing Unit  
Leichhardt Local Area Command

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To  
From:  
Date: 31/08/2016 11:11AM  
Subject: FW: URGENT RE: Liquor License Application # 1-3300082801 Sydney Fringe Festival/NEPA

Dear Sergeant ,

Could you please call me as soon as possible.

I am trying to get the liquor application for Newtown Entertainment Precinct completed and I need to know the Position Police have for this liquor licence application and or if there are any conditions you wish to impose.

Kind regards,

| Licensing Support Officer



Thank you .

As I Do not have these documents, I will contact Dominique Retamal Sgt West from Leichhardt Area Command on Monday.

Kind regards,

| **Licensing Support Officer**

Liquor & Gaming NSW | NSW Department of Justice

Level 7 | 10 Valentine Avenue | Parramatta NSW 2150

PO Box 8235 | Parramatta Westfield NSW 2150

T:                      E: .

W: [www.liquorandgaming.justice.nsw.gov.au](http://www.liquorandgaming.justice.nsw.gov.au) | [www.justice.nsw.gov.au](http://www.justice.nsw.gov.au)

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**From:** [mailto: ]  
**Sent:** Friday, 26 August 2016 5:24 PM  
**To:**  
**Cc:**  
**Subject:** URGENT RE: Liquor License Application # 1-3300082801 Sydney Fringe Festival/NEPA

Dear

has informed me that you are still requesting further consent from Council and police. I sent you an email on Wednesday with the contact details for Dominique from Inner West Council (now ccd in here) stating that ILGR had been sent their consent on the 8/7/16 and instructing you to contact her directly if you needed any further information.

I have also ccd Sergeant from the Leichhardt Area Command here who has also consented to our application but if you need to speak with him direct please do.

This is starting to become a comedy of errors. Our application was sent to ILGR on the 7/7/16 with council consenting on the 8th and police having no objections. We are now ten days out from our event and still waiting for approval. You now have all the documentation you need and/or all the contacts of the individual stakeholders.

All the best

Festival Director/CEO | SYDNEY FRINGE |

5 Eliza Street, Newtown NSW 2042 Australia

M: | E: | W: [www.sydneyfringe.com](http://www.sydneyfringe.com)

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