



05 October 2018

Hon Paul Green MLC  
Committee Chair  
Portfolio Committee No. 6 – Planning and Environment  
Legislative Council  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

**RE: Supplementary Questions on Notice – Inquiry into the Music and Arts Economy**

**1. In the view of the Live Music Office, what would be the best balance between the ‘agent of change principles’ and the introduction of ‘entertainment precincts’ in NSW?**

The Live Music Office has experience in working with governments and the music industry around the country in investigating town planning solutions to land use conflict and night time economy development. We recognise that this is a challenging area of complex regulation, and where site specific approaches have been introduced to respond to particular local issues within state and local government land use planning frameworks and environmental regulations.

Special Entertainment Precincts/Areas (SEPs/SEA) have been in place in Brisbane since 2006, and have proved highly effective in setting the ground rules from a planning and sound/noise regulation perspective. Entertainment venues in the Special Entertainment Precinct are exempt from the amplified music noise requirements of the Queensland Government’s liquor licensing laws, with responsibility for regulating amplified music noise from venues in the Special Entertainment Precinct transferred from the State Liquor Licensing Division to Council. Once the coordinated regulatory framework is in place, An SEP/SEA can be as finite as an overlay for a single venue.

If this approach could be applied in-principle for application in NSW, it would effectively enable removing any of the existing jurisdictional overlap from the multiple agencies in NSW identified by this inquiry as regulating sound/noise, whilst also providing for higher ambient noise levels within the precinct, and aligned building controls for venues as well as short and long term residential land use within designated areas.

The Live Music Office understands that Brisbane City Council have provided a submission to the inquiry that speaks to an evaluation of the operation and the economic impact the Fortitude Valley SEPs have delivered since 2006, which provides an evidence base for this discussion. From an industry position we would strongly advocate that the NSW regulatory framework enable the designation of this type of precinct based approach.

We’ve also seen the great results being achieved in Wollongong with not only their use of s.149 Planning Certificates to set the ground rules for the City Centre and Town Centres, but also from there the alignment of a range of approaches including acoustic privacy measures for residential development, enabling community safety meetings noise complaints process, standing DA’s for event sites, planning guidance and case management. The evidence provided to the Inquiry by Mark

Grimson, Economic Development Manager, Wollongong City Council, at the hearing in July makes for compelling reading and attests to the effectiveness of this approach. The Live Music Office would advocate for the coordinated suite of measures that Wollongong have developed to be adopted more widely across suburban and regional NSW as a best practice baseline approach, from which communities can then develop further site specific local solutions to support creative and vibrant evening/night/24 hr economies, and which might also include precincts, Agent of Change (AoC), or both.

The application of the AoC principle is underway in NSW, with both the City of Sydney (Open and Creative City) and Newcastle City Council (Newcastle After Dark) doing leading work in progress investigating the application of AoC in the state context.

The Victorian use of the AoC planning principle has been strongly referenced in submissions, as well as by their state representatives to this inquiry, with Music Victoria noting the introduction of AoC has saved at least 6 venues to date. Looking to Victoria and London, for example, AoC was able to be introduced relatively quickly, to respond to an attrition of venues from established inner city scenes. The intended fairness of the approach has been able to be simply and widely communicated, and connect with town planners and residents, as well as the wider community and the music industry for its common sense direction.

The associated practice note provides thorough and balanced guidance in meeting the requirements of the policy, and importantly, for the purpose of assessing whether the noise standards are met in the operation of Clause 52.43 – Live Music and Entertainment Noise, the noise measurement point to be located inside a habitable room of a noise sensitive residential use with doors and windows closed.

In consideration, queries that could be raised might include that by endorsing AoC for the NSW context, are we tacitly giving consent for residential development in established night economy areas as long as no venues are adjacent at the time; many venues are leased, not owned and as land values rise, may be repurposed; how will venues be recognised?; how to effectively address operational changes in use (as it is triggered at the application stage); are background levels appropriate and measuring points aligned; what protections are there for venues against appeals process; and importantly, recognising the multiple agencies regulating sound/noise in NSW, what protections do venues have with regards to jurisdiction shopping by potential complainants. The QLD SEP model is not subject to these potential issues.

In 2018 Music Victoria have undertaken an evaluation of the operation of AoC, and as that becomes available, will be an important reference for this discussion. Given that AoC is only a relatively recent approach, understanding the long term outcomes will take time.

In September 2018 the Government of Western Australian tabled the *Planning for entertainment noise in the Northbridge area* discussion paper which brings a very important and timely reference to the discussion, where a stronger statutory planning mechanism was recognised as needed to provide clear and consistent guidance for new developments in the Northbridge entertainment precincts in Perth.

The proposal is for an entertainment precinct where AoC principles are applied as an overlay through the designation of a Special Control Area (SCA) for the entertainment precinct in the City of Perth's City Planning Scheme.

This might be viewed as a hybrid model incorporating principles of each approach.

From the Executive Summary, *Planning for entertainment noise in the Northbridge area, Public consultation paper - September 2018*.

(Precinct)

*The proposed amendments to the Noise Regulations endeavour to make compliance less onerous for entertainment venues by removing the existing outdoor amenity protections for noise-sensitive premises within the Northbridge entertainment precinct. This means affected noise-sensitive premises would potentially receive higher levels of noise in outdoor areas, including balconies, patios or alfresco areas, and higher levels of noise inside the dwelling if the doors and windows are open. While outdoor protections are removed, those applied to indoor areas must be consistent with the protection of public health and amenity and international evidence on health impacts.*

(AoC)

*Supplementary planning measures would introduce the 'agent of change' principle, which would require development proposals to demonstrate appropriate siting, design and construction measures to achieve the required noise attenuation to support the intended use of the development and to minimise impact on existing land uses.*

In summary, recognising that AoC is already being investigated at the local level in NSW, and Wollongong have a proven baseline model well referenced through the inquiry, the enabling of Special Entertainment Precincts (and other definitions) through the Standard Instrument for preparing local environmental plans (LEPs) and associated regulation - and potentially AoC as an aligned precinct overlay informed by WA - would in our view provide a suite of options available through which greater NSW can better plan for night economies, a vibrant music culture with sustainable venues, and support long term state development.

## **2. When did the office cease to receive Federal funding?**

The Live Music Office ceased to receive Federal funding on 31 Dec 2017.

## **3. What impact has that had on the functions of the Live Music Office?**

The end of Federal funding in December 2017 has meant that the Live Music Office is now operating at a significantly reduced capacity, with 2 (0.4) FTE staff now engaged for 2 days a week since August 2018. This has only been made possible through APRA AMCOS who are covering all staffing, operational and travel costs currently.

The Live Music Office is also in receipt of \$30k from Create NSW for communications support for an evaluation of the NSW Live and Local Program, operational funding for which ceased in August 2018.

In closing, The Live Music Office appreciates the attention of the Committee to these matters, and should you require any further information or wish to discuss any of the issues raised in this submission please be in touch.

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