

**Legislative Council Regulation Committee Inquiry  
into the Liquor Amendment (Music Festivals)  
Regulation 2019  
and the Gaming and Liquor Administration  
Amendment (Music Festivals) Regulation 2019**

**City of Sydney response to  
Supplementary Questions and  
Question on Notice**

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# Question on Notice

**Ms CATE FAEHRMANN:** How long was the 3 October meeting?

**Ms SCULLY:** I would have to get back to you on that.

**Ms CATE FAEHRMANN:** Was everybody there together and just given five minutes each to speak?

**Ms SCULLY:** I understand there were 12 stakeholders.

**Ms MOORE:** We could take that on notice.

**Ms SCULLY:** We can come back to you.

The 3 October stakeholder roundtable was a 90 minute meeting. The following attendees were listed on the agenda provided to the City of Sydney:

## **Panel:**

Mick Fuller APM | Commissioner | NSW Police Force

Dr Kerry Chant | Chief Medical Officer | NSW Health

Philip Crawford | Chair | Independent Liquor & Gaming Authority

## **Stakeholders:**

Emily Collins (MusicNSW)

Dr Caitlin Hughes (National Drug and Alcohol Research Centre)

Matthew Lazarus-Hall (St Jerome's Laneway Festival)

Dr Alex Wodak

Mark Ferry (Ted Noffs Foundation)

Shelley Smith (Ted Noffs Foundation)

Gino Vumbaca (Harm Reduction Australia)

Adelle Robinson (Fuzzy)

Peter Rugg (City of Sydney)

Damian Thomas (Local Government NSW)

Elizabeth Robertson (Local Government NSW)

Andrew Johnson (Advocate for Children and Young People)

Each of the stakeholders were invited to address the panel for 5 minutes on a topic of their choosing regarding "keeping people safe at music festivals." Most of the attendees spoke about harm minimisation and drug or "pill testing" and were told this was not an option up for consideration.

Twenty minutes (11:35 – 11:55) was provided for discussion. The majority of this time involved the Panel asking questions of the Stakeholders and a small amount of debate around why pill testing was not being considered.

# Supplementary Question 1

**Q: The Government has pointed out that this regulation currently applies to a small number of festivals. Other submissions have pointed out that the regulation has caused broader concern. Could you detail any examples you are aware of that are of concern in the broader festival sector about the application of these regulations?**

## Lack of clarity

The Liquor and Gaming NSW website provides advice to the festival sector on the music festival licence. On the following page, titled “Music Festival Licence”

<https://www.liquorandgaming.nsw.gov.au/operating-a-business/music-festival-licence>

the second sentence reads:

*You will only need to apply for a music festival licence if the Independent Liquor & Gaming Authority (PDF 159.1 KB) has required you to do so.*

The hyperlink leads to a downloadable PDF that states:

### ***How will you know if you are required to apply for a music festival licence?***

*A music festival is an event, other than a concert, that:*

- a. is music-focused or dance-focused, and*
- b. has performances by a series of persons or groups that are engaged to play or perform to live or pre-recorded music, or to provide another form of musical or live entertainment, and*
- c. is held within a defined area, and*
- d. is attended by 2,000 or more people (on any one day), and*
- e. is a ticketed event.*

*Under the Regulation, it is ILGA’s role to determine whether you should be required to apply for a music festival licence on the basis that your festival would be more appropriately dealt with under a music festival licence than any other type of licence.*

*In making this determination, ILGA may have regard to advice provided by NSW Health, NSW Police, and also to any submission made by you.*

*Before making a determination about whether your festival is more appropriately dealt with under a music festival licence, ILGA will provide you with a copy of advice received from NSW Health and/or NSW Police in relation to your event.*

*You will be given at least 21 days to provide a written submission to ILGA in response, should you so choose. You also may appear before ILGA in person if you wish to do so.*

*ILGA will not make a determination on whether you are required to apply for a music festival licence until after you have had the opportunity to make a submission.*

This information does not suggest that the regulations only apply to a small number of festivals, or will continue to only apply to a small number of festivals in the future. This information suggests that upon application for a Limited Liquor Licence any festival that meets the above criteria may be referred to the Music Festival Licence scheme.

Details of the 14 festivals to which the music festival licence currently applies were communicated via media release and no methodology or criteria by which these festivals were deemed better suited to a Music Festival Licence have been published.

This lack of clarity and certainty for event producers is the cause of “broader concern” as communicated to City staff, Councillors and the City of Sydney’s Nightlife and Creative Sector Advisory Panel.

## **Market confidence and supply chain resilience**

The committee pointed out that only one of the 14 festivals currently subject to the licence is located within an area under the City of Sydney’s governance. However, there are broader supply-chain impacts for our residents, visitors and workers.

These festivals operate within an industry sector that has its own ecology, from staging companies, technicians, food and beverage and other service providers through to the promoters, producers and artists performing. When regulations cause uncertainty or financial strain for parts of this ecology, there are impacts across the supply chain.

It is the City’s understanding that the 14 festivals selected as most high-risk and subject to the new regulation were not consulted or asked to provide any information that might confirm or challenge their perceived level of risk prior to being announced by media release. These 14 festivals are at the larger end of the festival scale, generally earning more revenue and employing more of this industry sector’s supply chain. When you apply financial pressure to these businesses at the top of the supply chain, there are inevitable flow-on effects for the rest of the sector, including a loss of confidence in their suppliers and their audience base.

*Days Like This* festival (the one festival “on the list” that operates within our Local Government Area) has reported to City staff a downturn in ticket sales directly related to the government announcement of these new regulations and associated media coverage of the “war on festivals”. The regulations were announced while the festival was on sale. As other festivals like *Mountain Sounds* and *Psyfari* announced they would close due to the regulations and *Bluesfest* threatened to move their event to Queensland, the market (audience) appeared to become nervous about purchasing music festival tickets. *Days Like This* has reported to the City that this loss of consumer confidence resulted in a considerable downturn in ticket sales and revenue and a financial loss from the 2019 festival.

Further, Mothership Events who produce *Up Down* and *This That* festivals, both included on the list of 14 high risk events, have shared with City staff correspondence they had with ILGA. In this correspondence they note:

*“Whilst we appreciate that Liquor and Gaming may not see being included on this list as a reflection of our commitment to safety or professionalism, the public perception and implications of being associated with this list is quite the opposite. In effect this list is seen as a ‘dodgy operator list’, which Mothership Events do not belong on. The inclusion on this list does not accurately reflect the actual planning strategies and environment that the event operates within. It also does not match the feedback from the events’ stakeholder engagement history or safety records.”*

There is a feeling within the industry sector that inclusion on the list of events subject to the music festival licence is damaging to brand and reputation. The risk of being included on any future list of festivals subject to these regulations has a material impact on larger events being able to attract sponsors, talent and audience. These regulations have caused uncertainty and caution within the industries and consumers who support the business of festivals.

In the finance sector they might describe it as the material impacts of regulatory risk.

## Supplementary Question 2

**Q: Could you detail any examples you are aware of where festivals may have been discouraged from operating, or starting?**

Immediately following the announcement of the new music festival licence scheme in February there was broad media coverage of the industry's response.

- Mountain Sounds and Psyfari both cancelled their festivals.
- The Illawarra Folk Festival expressed concerns about their capacity to meet the new regulations.
- Byron Bluesfest threatened to move their event to Queensland.

These are only a small number of examples. There was a protest march and concert in Hyde Park attracting thousands of attendees. There was a "Don't Kill Live Music" campaign established. The media coined the term "war on festivals". This widely reported instability is understandably discouraging for the entire sector.

More importantly, before the introduction of the new regulations the festivals sector had already been expressing concerns about the regulatory environment impeding their operations or discouraging continued operations. The consultation the City has had with its stakeholders suggests the sector was already not at ease with the regulatory approach.

For example, festival operators who are not required to apply for the music festival licence have made submissions to this Inquiry detailing regulatory burdens such as unexpected user-pay-police bills that are four or five times higher than previous festivals, despite a strong track record of patron safety.

The Northern Beaches Music Festival was cancelled in April 2019 (after the government had rolled back the music festival licence to a list of only 14 events). They cite over-regulation and the imposition of more costly conditions on their liquor licence as the reason for cancelling the event.

In addition to removing the music festivals regulations that are under inquiry, further consideration needs to be given to the level of financial and administrative burden caused by regulation and liquor licence conditions for all levels of the music festival sector – from the smallest community festivals to the largest commercial operations.

The City of Sydney recommends a "back-to-the-drawing-board" approach which involves thorough consultation with a broad cross-section of the sector in order to establish the full extent of unnecessary regulatory burden stifling all music festivals, and a more collaborative approach to patron safety.

## Cr Jess Scully, Co-chair, City of Sydney Creative Sector and Nightlife Advisory Panel: Response to Supplementary Questions

As Chair of the City of Sydney Nightlife and Creative Advisory Panel, I sought feedback from members of the Panel who have shared with me the significant challenges experienced by themselves and their peers representing the wide spectrum of music and cultural festivals in NSW.

In particular, they have expressed the following concerns which continue to create confusion, uncertainty and angst among the sector:

- The significant financial burden imposed by the Government relating to excessive security and policing requirements and the lack of transparency around how these costs are calculated for NSW, with invoices received by some festival producers reported to be over \$100k and received after the events have been fully costed and sold out.
- The remaining lack of clarity about the criteria and definition of festivals and uncertainty about which events may be impacted by the regulation in future.
- The attempts by the NSW Government to mitigate drug related deaths by imposing ill-conceived regulation onto festival producers, instead of taking a sensible and evidence based approach to harm minimisation.

Members of the Advisory Panel have reported a change in approach from police and licencing authorities, concurrent with the new regulation. While these changes are not directly attributable to the music festival licence scheme, the sector has identified a more risk averse approach to policing and licencing that has seen established events upgraded to high risk and subject to much higher costs that haven't been budgeted for and which have been arrived at without transparency. As a result, community events which have previously have run without incident are finding themselves bearing significantly higher costs and having to navigate a more complex regulatory environment than they have in the past, and this impacts their viability.

As an example, the Senior Producer for community events surrounding Mardi Gras reported numerous obstacles this year including conflicting information received from the Office of Liquor and Gaming (OLG) and the Local Area Command, a lack of knowledge about the music festival licence from OLG staff and budgeting risks to already sold out events.

Further to this, the Advisory Panel have identified a number of festivals, outside the City of Sydney Local Government Area, which have either been cancelled or relocated due to the impact of the music festival licence scheme: These include:

1. **Mountain Sounds Festival** on the Central Coast, forced to cancel following advice received one week before the festival requiring them to pay \$200k for 45

Police, despite earlier advice from Police that they were not expecting any major drug problems to arise at the festival and that they were satisfied with all provisions made in relation to medical, security, ambulance, health and event planning.<sup>i</sup>

2. **Psyfari Festival** in the Blue Mountains forced to cancel due to excessive costs resulting from licencing requirements.<sup>ii</sup>
3. **Bohemian Beatfreaks Festival** which relocated from Casino NSW to QLD after receiving a quote for \$200k for Police to attend, despite an original quote for \$16k in line with previous years costs. Police later withdrew their support for the festival citing “safety concerns”.<sup>iii</sup>
4. **Dragon Dreaming Festival** in Wee Jasper, cancelled following advice by Emergency Services that the festival would not be supported due to a previous drug related death and drug detection rates.<sup>iv</sup>
5. **Northern Beaches Music Festival** forced to cancel after being required to implement excessively onerous security provisions despite operating for nine years without incident.<sup>v</sup>

While these are examples our Advisory Panel were able to cite from media cover and industry discussion, there is a reluctance in the sector to self-identify due to a fear of additional unwanted attention from police and licencing authorities.

## References

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<sup>i</sup> <https://junkee.com/mountain-sounds-organisers-hit-back/193486>

<sup>ii</sup> <https://themusicnetwork.com/another-nsw-festival-feels-the-squeeze-as-psyfari-cancels/>

<sup>iii</sup> <https://www.abc.net.au/news/2018-11-17/police-bill-to-shut-down-music-festival/10505602>

<sup>iv</sup> <https://www.canberratimes.com.au/story/6292126/dragon-dreaming-festival-2019-cancelled-amid-political-pressures/?cs=14231>

<sup>v</sup> <https://junkee.com/northern-beaches-cancelled>