

Our ref: OUT-29486

20 August 2019

The Hon. Mick Veitch, MLC  
Chair  
Legislative Council Regulation Committee  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

**By email: [Regulation.Committee@parliament.nsw.gov.au](mailto:Regulation.Committee@parliament.nsw.gov.au)**

Dear Chair

**Response to supplementary questions: Inquiry into Liquor Amendment (Music Festivals) Regulation 2019 and Gaming and Liquor Administration Amendment (Music Festivals) Regulation 2019**

Thank you for the opportunity to provide additional information in response to two supplementary questions from the Legislative Council Regulation Committee's Inquiry into music festival regulations.

Responses from Local Government NSW (LGNSW) are set out below.

**1. 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?**

The NSW Government has itself acknowledged concern in the festival sector with respect to the application of the music festival regulation, noting in a 13 February 2019 media release that:

*We appreciate there has been some confusion and misunderstanding about the way the new scheme will operate, particularly in relation to the initial self-assessment matrix that was circulated to some festival organisers.*

*We have sought to clarify how that matrix should be used, and are currently reviewing this tool.*

The confused announcement and implementation of the reforms has contributed to current concerns. While most people in the music sector, and some in broader community, are aware that there now seems to be a targeted approach to the festivals the NSW Government is regulating through the new changes, many in the festival sector have also expressed concern to councils around the potential for *future* changes to the regulation of music festivals. This perception of uncertainty is a concern for the music festival sector. Continued confusion still

exists in the community and this is coupled with unequal interpretations of the regulations by local emergency services which has caused festival organisers to be wary in NSW.

Bluesfest Byron Bay Director wrote an open letter to the NSW Government in early February 2019 during the confused roll-out of new requirements, advising that:

*It seems the new policies are poorly thought-out and through their implementation will decimate our industry should our government not see good sense.*

*I am saying now, Bluesfest will leave NSW. We have no choice it's a matter of survival.<sup>1</sup>*

Festival organisers, including for Kiama's Folk by the Sea and the Illawarra Folk Festival, have also expressed concern to LGNSW around the lack of consultation with the festival sector, and the unnecessarily broad definition of *music festival* in the regulations. This lack of legislated clarity has led to concern that festivals that are not currently deemed to be 'high risk' could very easily be classed as high risk by the NSW Government in the future.

To illustrate this concern, the definition of music festival licence contained within clause 61B of the Liquor Regulation 2018 clearly captures almost every music event in NSW that is above a certain size and has no reference to risk:

**61B Meaning of "music festival"**

*A music festival means 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, and*
- (e) is a ticketed event.*

However, under the finalised regulations not all music festivals captured by the above definition will require a music festival licence and this has created significant confusion. The Independent Liquor & Gaming Authority (ILGA) requires certain music festivals to apply for the music festival licence based on unclear information contained within a Music Festival Licence Guidelines document issued by the NSW Government<sup>2</sup>. This document notes that ILGA may consider:

- any advice from the NSW Health Secretary that there are elevated health risks

---

<sup>1</sup> The Industry Observer, Peter Noble: The Govt's festivals policy will force Bluesfest out of NSW, 11 February 2019, available at: <https://theindustryobserver.thebrag.com/bluesfests-peter-noble-govts-festivals-policy/>

<sup>2</sup> NSW Government, Music festival licence guidelines, 28 February 2019, available at: [www.liquorandgaming.nsw.gov.au/data/assets/pdf\\_file/0008/218429/fs3153-music-festival-licence-guidelines.pdf](http://www.liquorandgaming.nsw.gov.au/data/assets/pdf_file/0008/218429/fs3153-music-festival-licence-guidelines.pdf)

- any advice from the NSW Commissioner for Police that there are elevated health risks
- Any death at, or in connection with, a festival in the previous three years
- Any submission made by the festival that it should not be required to apply for a music festival licence.

The concern for the festival sector is that the process for being deemed by ILGA to require a music festival licence is unclear and liable to change at any time – especially where the legislated definition is so broad that it captures so many festivals.

Some councils have approached LGNSW to explain that there is community perception (rightly or wrongly) that all music festivals are now more difficult to run. In one regional local government area, for example, people in the community have been surprised that the annual music festival is still going to be held. Many locals have commented to council staff that they thought it was cancelled due to the new music festival regulations. This is a significant misunderstanding which could have longer term impacts on ticket sales for larger music festivals.

One regional council has advised LGNSW that the music festival regulation has resulted in a great deal of confusion for its event organisers, with one organiser going through all the paperwork and process only to be told that it was exempt. Another electronic music festival which was located within the same council area has decided to relocate to Queensland. The council cannot be sure that the NSW regulations were the exclusive reason for the move but believes that they were a contributing factor.

More generally, LGNSW has been advised by its member councils that council and/or community events can be subjected to inconsistent safety or traffic management requirements where a local government area is spread over multiple police local area commands. These concerns give rise to similar concerns with the application of the music festival regulations.

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

A council in regional NSW has reported to LGNSW that it has had one major venue advise the council that it would not host future music festivals due to the new regulations. This meant the council had to relocate one of its events. When pushed for an explanation, the venue operator advised the council that music festivals were 'too high risk'.

In another local government area, two music festivals are held each year. Neither of these festivals are currently listed as high risk however both have experienced more onerous requirements since the regulations were announced. This includes more stringent risk management and health plans and increasing costs for security. These changes, coupled with current traffic management plan requirements and insurance requirements could take a toll on smaller community run events.

Councils across NSW would welcome genuine consultation in the development of sensible regulation that impacts on councils in their role as event organisers, regulators and facilitators.

Councils and communities do not want to see festivals and events cancelled or moved interstate to the detriment of the cultural and economic life of our communities. Music festivals should be supported and not regulated out of existence.

Yours sincerely

Cr Linda Scott  
**President**