

**Submission  
No 237**

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

**Organisation:** Local Government NSW

**Date received:** 28 February 2018

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# **Draft Submission to Portfolio Committee No. 6 on the Music and Arts Economy in New South Wales**

February 2018

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## Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing all NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community based system of local government in the State.

LGNSW thanks the Committee for the opportunity to respond to the Terms of Reference for the Inquiry into the Music and Arts Economy in NSW. This submission is in draft form until endorsed by the LGNSW Board. Any revisions made by the Board will be forwarded in due course.

Local government is responsible for relevant planning and regulatory functions. The relationship between local government and the NSW Government around cultural activity is ongoing and must continue to grow and change with the sector. Councils are the key facilitators (i.e. providers and approvers) of permanent and temporary venue spaces and they regulate noise abatement and environmental impact in their consideration of development applications from cafes, restaurants and live music venues.

## Purpose

The music and arts economy in NSW has been the subject of considerable debate following the NSW Government's *Liquor Amendment Act 2014* (lockout laws) and its impacts on the Sydney metropolitan area.

The Portfolio Committee No. 6 - Planning and Environment was asked to inquire into and report on the music and arts economy in NSW and in particular:

- (a) progress on the implementation of the Government response to the New South Wales Night Time Economy Roundtable Action Plan
- (b) policies that could support a diverse and vibrant music and arts culture across New South Wales
- (c) policies that could support the establishment and sustainability of permanent and temporary venue spaces for music and for the arts
- (d) policy and legislation in other jurisdictions, and options for NSW including red tape reduction and funding options

This inquiry provides a timely opportunity to consider the Government's approach to the role of arts and culture in local economies, and consider ways to foster a vibrant music and arts economy both in Sydney and in regional NSW.

## This submission

For this submission LGNSW defines the key stakeholders in the music and arts economy as: all spheres of government, the NSW business sector and the creative industries including live music and performance, festivals and events.

LGNSW notes that the music and arts economy does not only consist of creative industries and events, but that a successful economy includes communities and their diverse cultures; hospitality and retail; and places and spaces.

LGNSW's comments are focused on issues of state-wide importance. In this submission, LGNSW does not seek to offer detailed discussion of technical aspects. LGNSW urges the Inquiry to consider the submissions made by individual councils on these issues.

## Response to the terms of reference

LGNSW makes 13 recommendations in this submission which are summarised at the end of this document. In this section LGNSW addresses each of the terms of reference.

### (a) progress on the implementation of the Government response to the New South Wales Night Time Economy Roundtable Action Plan

The Sydney Night Time Economy Roundtable was established in 2016 as part of the review of *Liquor Amendment Act 2014* and the Government's response to the Roundtable is focused on the Sydney CBD. Councils have shown strong interest in promoting and improving their night time economies and the Greater Sydney Commission recognises the importance of centres outside of the Sydney CBD. Therefore LGNSW asserts that the music, arts and night time economy is not geographically limited to inner Sydney so requests that the Government's response is broadened across NSW.

Many of the actions in the Government response have not yet been implemented or publicly reported on. LGNSW recognises that developing the night time economy across NSW will take time. While the NSW Government response contains myriad actions, some warrant priority. In consultation with Night Time Economy Councils' Committee (NTECC), LGNSW has identified the top three actions which should be prioritised:

Priorities for Government's response to the NSW Night Time Economy Action Plan	
Action Number	Rationale
<b>Action 2.1</b> Develop a night time economy master plan for Sydney	A master plan should be developed immediately as a basis for other actions and the master plan's coverage should extend beyond Sydney's borders. In particular, the plan should develop a focus for night time activation in non-metropolitan areas.
<b>Action 2.7</b> Identify reforms to the planning regulations – through changes to exempt and complying development (e.g. to encourage start-ups, creative and small business) and the Building Code of Australia (BCA).	Councils want flexibility in planning controls so that creative uses, including temporary uses are more widely permissible. Councils also seek streamlined approvals processes in cases where approval is also required from the State (e.g. liquor licensing and for some festivals). This is explored further in Section c).
<b>Action 3.3</b> Conduct and promote a trial of public transport to 4am on Friday and Saturday nights	Transport is an essential element to the success of the night time economy, by attracting people to controlled environments, such as town centres, and enabling them to return home safely. Public transport is also essential to the staffing of businesses. Furthermore, transport hubs and vehicles can form part of activation precincts, being places of art and performance themselves.

**Recommendation 1:** That the Government's response to the NSW Night Time Economy Action Plan should specify priority actions, contain a transparent reporting system on the progress and completion of each action, and the Government should pursue the priorities identified by the local government sector being Action 2.1, Action 2.7 and Action 3.3.

In the year since the Government's response to the Sydney Night Time Economy Roundtable was released, three significant, relevant events have occurred: 1) the establishment of the NSW Night Time Economy Councils' Committee, 2) release of the Greater Sydney Commission's District Plans and 3) the establishment of the Night Time Economy (NTE) Taskforce.

### **1) NSW Night Time Economy Councils' Committee**

In early 2017 a small group of councils came together, with the support of LGNSW, to establish the NSW Night Time Economy Councils' Committee (NTECC).

Councils from Sydney and some regional areas attended NTECC's first event - the NSW Night Time Economy Councils' Forum held in October 2017. Following the Forum, council staff were invited to join an online Night Time Economy practitioners' network. Thirty councils have joined the network so far which represents approximately a quarter of all councils in NSW.

NTECC has started planning three workshops for 2018 to help build the skills of council staff in: strategy development; business and community engagement; and planning and regulations relevant to the night time economy.

The success of the NTECC shows there is a real appetite among councils in NSW to develop their night time economies and establish clear policies and strategies. In particular, council-run events and place activations require resourcing such as through start-up grants. The NTECC is a valuable resource for the NSW Government to draw upon to ensure that the Roundtable Action Plan is effective and covers all of NSW.

### **2) Greater Sydney Commission District Plans and Regional Plan "A Metropolis of Three Cities"**

In October 2017, the Greater Sydney Commission (GSC) released 'A metropolis of three cities – connecting people' draft Greater Sydney Regional Plan. The Plan contains only brief references to the night time economy and could be strengthened by considering the importance of the night time economy to local and regional areas.

### **3) Establishment of the Night Time Economy Taskforce**

Following the Sydney Night Time Economy roundtable, a Sydney Night Time Economy Taskforce was established. LGNSW is pleased to see the City of Sydney is represented on the Taskforce alongside 16 NSW Government agencies. However, as discussed above, councils across NSW are working towards developing their night time economies.

**Recommendation 2:** That the membership of the Night Time Economy Taskforce be expanded to include a council from each of the "three cities" outlined by the Greater Sydney Commission and a representative from LGNSW to represent and link with other engaged councils across Sydney and the state. A smaller targeted team within the Taskforce can continue working with the City of Sydney to address the unique needs of the Sydney CBD.

## **(b) policies that could support a diverse and vibrant music and arts culture across NSW**

A vibrant music and arts sector in NSW relies on a whole of State Government approach to ensure that there is a sustainable environment in which venues (run by businesses, councils and community groups), producers, performers and residents can participate.

The sector operates within a multi-regulatory framework and is impacted by local, state and federal legislation and requirements. LGNSW applauds the work of both the NSW *Easy to Do Business* initiative and the NSW Small Business Commissioner *Small Business Friendly Councils* initiative in assisting the streamlining of regulations for small businesses.

NSW needs an overarching state-wide policy framework and a strategic action plan which identifies ways in which the state can support the music and arts economy not only in its state significant institutions and in metropolitan Sydney, but at the grass roots level across the state. A night time economy master plan is but one part of this strategic plan.

A music and arts economy plan must be the result of intensive consultation with local government to identify and overcome the barriers to activating a vibrant and diverse music and arts culture in NSW. LGNSW suggests an *Easy to Do Culture* initiative is introduced to achieve this.

Some councils have already acted to address the strategic policy gap by preparing live music policies, strategies and action plans including: Sydney, Wollongong and Inner West Councils. Not all councils in NSW have the capacity to develop such strategies, given that preparing them requires resources to navigate several legislative and regulatory areas.

**Recommendation 3:** LGNSW calls on the State Government to undertake state wide industry, council and peak body consultation to develop a high-level music and arts economy policy and strategic plan.

**Recommendation 4:** That the music and arts economy policy and strategic plan look to the NSW *Easy to Do Business* initiative as a model for streamlining approval processes – an *Easy to Do Culture* initiative should be introduced.

### **(c) policies that could support the establishment and sustainability of permanent and temporary venue spaces for music and for the arts**

#### **Planning regulations**

Reform to planning controls is needed to promote and protect permanent and temporary venues and spaces. Specific planning issues have been identified by our members and include:

##### Exempt and Complying Development

Exempt and complying provisions should enable creative activities to be located in underutilised spaces within suitable zones.

##### Flexibility with the Standard Instrument (SI)

- More flexibility is needed for councils to permit small-scale cultural uses, without DA consent<sup>[1]</sup>. For example, a permit or self-regulatory system (based on a tick-the-box set of criteria) is needed to manage the minor impacts of small scale cultural activities. Where the activity cannot meet the specified criteria, a DA would be required.
- Further flexibility is needed for councils to approve multi-use developments, such as restaurants which also accommodate art galleries, live music or market space.

##### Zoning definitions

Definitions in the SI need to be revised to ensure that art spaces, live performance and cultural activities are permissible in relevant zones.

##### Streamlining event approvals

- Obtaining approval for cultural events can be challenging<sup>[2]</sup> for councils and event organisers to ensure compliance with state and federal regulations including crowd, traffic and emergency management requirements
- An advisory service for community, artistic and volunteer groups and councils would be helpful.

**Recommendation 5:** LGNSW calls on the State Government to resource the *Easy to Do Culture* initiative to work across agencies to improve the approval processes, and advisory services, for cultural activities.

#### **NSW Cultural Infrastructure Plan and Regional Cultural Fund**

The NSW Government is currently developing a Cultural Infrastructure Plan that will set a direction through to 2025, managed by Cultural Infrastructure Program Management Office

<sup>[1]</sup> The Temporary Use of Land clause in the Standard Instrument – Principal Local Environment Plan, part 2, Clause 2.8 allows for *development consent* to be granted for development on land in any zone for a temporary use. Councils are seeking flexibility to grant temporary approval for small-scale cultural uses without development consent

<sup>[2]</sup> As has been researched extensively by Garry O'Dell, University of Newcastle



(CIPMO). The Draft Plan is proposed to be submitted to Cabinet in mid-May. LGNSW applauds a strategic approach and notes the significant efforts of CIPMO in consulting with councils.

In 2015/16, Create NSW commissioned two tranches of research: *Mapping Western Sydney* and *Mapping Regional NSW*. The Western Sydney research was carried out by SGS Economics and Planning. The regional project was undertaken by the University of Technology, Sydney. The findings of the mapping projects were to inform strategies and infrastructure development decisions of the State Government.

Neither of these reports has been released. LGNSW believes that the significant financial resources allocated to these research projects alone warrants the public release of the results. These reports would provide the arts sector with a crucial evidence base to help inform its input to the Cultural Infrastructure Plan.

The NSW Government (through CIPMO) is administering the four year \$100 million Regional Cultural Fund (RCF). CIPMO notes that the first \$25 million allocation of the RCF will be 'announced soon'. LGNSW applauds this unprecedented injection of funds for culture in NSW.

While CIPMO has disseminated the guidelines for the RCF, more transparency around the assessment process and priorities that determine the allocation of these funds is sought. LGNSW would be pleased to be involved in helping assess these applications, and future RCF applications and allocations, given our expertise and knowledge of the local government sector.

**Recommendation 6:** LGNSW calls upon the NSW Government (Create NSW) to immediately release the *Mapping Western Sydney* and *Mapping Regional NSW* reports.

**Recommendation 7:** LGNSW calls on the State Government to reveal the assessment criteria and processes for assessing the first tranche of the Regional Cultural Fund applications and to do so for the remainder of the program. LGNSW is keen to be included on Regional Cultural Fund assessment panels in the next three years of funding tranches.

### **Funding for existing venue infrastructure**

Councils report there is a lack of affordable building stock for studio, rehearsal and creative industries workplaces. In some cities there are heritage-listed venues that could be suitable for the arts, but there is a deficiency of major funding to repurpose these buildings for performance and exhibitions. Additionally, smaller grants, with streamlined grant application processes, are needed to fund simple upgrades and fit outs of premises to meet access, fire safety requirements.

**Recommendation 8:** That the NSW Government makes 'adaptive reuse and or regeneration' an eligible activity under the guidelines for the next three years of the Regional Cultural Fund and provide grant funding for upgrades to existing buildings to meet access, fire and safety requirements.

#### **(d) policy and legislation in other jurisdictions, and options for NSW including red tape reduction and funding options**

As all Terms of Reference for this inquiry necessitate a discussion of policy and legislation, some of our recommendations around policy and legislation have been included in our response to other Terms of Reference. They have not been repeated in the interest of brevity.

#### **Policy and legislation regarding live music in other jurisdictions**

NSW would benefit from a state-wide coordinated arts and music program to complement the RCF infrastructure roll out. Victoria has established a four-year *Music Works* program which takes an integrated approach to working with the music and arts economy, supporting creatives, distributing funding and addressing technical and regulatory reform. Western Australia has established a *Creative Music Fund*, and introduced planning reforms to strengthen the local venue sector. South Australia set up the *Music Development Office* which covers a mix of arts, industry and technology ideas, and Adelaide has now been named as a UNESCO City of Music.

**Recommendation 9:** That the NSW Government collaborates with councils and NSW peak bodies to establish a refreshed, coordinated four-year live music program modelled on *Music Works* in Victoria.

#### **Red tape reduction**

Red tape issues have been partially raised through response to Term of Reference a) and the discussion of planning regulations in Terms of Reference b). LGNSW stresses that these issues are state wide and impact around the clock.

The major issues raised by our members are the need for:

- The State to provide greater clarity with respect to compliance with the Building Code of Australia (administered in NSW by the Department of Planning and Environment) about adaptive re-use of existing buildings for affordable studio, rehearsal and creative industries workspaces
- The State to address the regulatory overlap associated with the management of noise, by removing duplication contained in the *Environmental Planning and Assessment Act 1979*, *Protection of the Environment Operations Act 1997* and *Liquor Act 2007*
- Simplified liquor licence approvals. There is an opportunity to address this in the proposed upcoming review of the Liquor Act. Councils are seeking:
  - Streamlined, more flexible processes for approvals, including temporary approvals, particularly in cases where cultural benefit and low impact can be demonstrated, e.g. enabling community impacts to be concurrently assessed and approved in both development and liquor licensing applications
  - Creation of a single point of contact within Service NSW which simplifies the documentation that is generated between applicants, councils, Liquor & Gaming NSW and Emergency Services

- More appropriate liquor licensing conditions for live music and performance venues, based on the nature of these venues and their contribution to the cultural life of the community.

**Recommendation 10:** LGNSW calls on the State Government to resource the *Easy to Do Culture* initiative to work across agencies to cut red tape for councils and applicants around compliance with the Building Code of Australia, liquor licensing, and noise management.

## Funding options

### Supporting new infrastructure

LGNSW is concerned that funding for new cultural infrastructure needs to be matched with funds to support councils to manage and operate that infrastructure. The NSW Government's RCF will result in new facilities being built and existing facilities improved. Both will need funding for their operation and resourcing.

Councils have long asserted that the amounts of funding available through the Create NSW Arts and Culture Development Program (ACDP) are essential, but not adequate to subsidise the operation of existing facilities. Councils in NSW are by far the lead spenders on cultural capital infrastructure, operation and projects. The proportion of total expenditure on arts and culture by local government in NSW is 32.9% (the highest in Australia).<sup>1</sup>

The NSW Government needs to adequately resource the operation of the new facilities that are created through the RCF by increasing funds in the ACDP.

Moreover, councils in Sydney, Western Sydney, the Blue Mountains, the Illawarra and Newcastle have infrastructure backlogs, including for cultural infrastructure, but are currently ineligible to apply to the RCF. The creation of the NSW Cultural Infrastructure Strategy is an opportunity to address this.

**Recommendation 11:** The NSW Government should urgently undertake strategic financial modelling of the impact of new cultural infrastructure on councils. The annual operational and project funding available through the ACDP needs to be significantly increased to meet the cost of operating new facilities and activating them with the highest quality artistic products.

**Recommendation 12:** The NSW Government should make creation of a funding stream for cultural infrastructure in Sydney, Western Sydney, the Blue Mountains, the Illawarra and Newcastle a key priority within the Cultural Infrastructure Strategy.

### Capacity building

In addition to infrastructure resourcing, councils have identified the need for other resources to support a diverse and vibrant music and arts economy in NSW:

- Increasing funding for existing programs including the NSW Department of Justice Community Safety Fund which provides funding for community safety initiatives to reduce crime and stamp out anti-social behaviour; and the Live Music Office's Live and Local Music Initiative which supports councils to develop bespoke local music events

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<sup>1</sup> Meeting of Cultural Ministers, Cultural Funding by Government, Australia 2015-16

- Resourcing for events and place activation through a) the establishment of a Night Time Economies Grants Fund for councils, and b) an increase in the availability of late night public transport
- Funding support to the NSW Night Time Economy Councils Committee (NTECC) to develop resources for councils including a model night time economy strategy that can be tailored by each council, and other guidance on developing a small bars policy.

**Recommendation 13:** The NSW Government builds capacity in the sector by: extending the Live and Local Music initiative, increasing the Community Safety Fund, and increasing late night public transport. The NSW Government should build the capacity of councils by establishing a Night Time Economies Grants Fund, resourcing the NTECC to develop a model Night Time Economy Strategy and Small Bars Strategy for councils.

## Conclusion and Recommendations

There is a strong appetite from the local government sector to work with State Government on the arts, music and the night-time economy.

Councils seek a shared vision with the State Government underpinned by a state-wide strategy and policy transparency and a coordinated approach led by the Department of Premier and Cabinet.

This submission has made the following recommendations:

### **(a) progress on the implementation of the Government response to the New South Wales Night Time Economy Roundtable Action Plan**

**Recommendation 1:** That the Government's response to the NSW Night Time Economy Action Plan should specify priority actions, contain a transparent reporting system on the progress and completion of each action, and the Government should pursue the priorities identified by the local government sector being Action 2.1, Action 2.7 and Action 3.3.

**Recommendation 2:** That the membership of the Night Time Economy Taskforce be expanded to include a council from each of the "three cities" outlined by the Greater Sydney Commission and a representative from LGNSW to represent and link with other engaged councils across Sydney and the state. A smaller targeted team within the Taskforce can continue working with the City of Sydney to address the unique needs of the Sydney CBD.

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**Recommendation 3:** LGNSW calls on the State Government to undertake state wide industry, council and peak body consultation to develop a high-level music and arts economy policy and strategic plan.

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**Recommendation 5:** LGNSW calls on the State Government to resource the Easy to Do Culture initiative to work across agencies to improve the approval processes, and advisory services, for cultural activities.

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**Recommendation 9:** That the NSW Government collaborates with councils and NSW peak bodies to establish a refreshed, coordinated four-year live music program modelled on *Music Works* in Victoria.

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