




CREATIVE
CITY
SYDNEY



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CITY OF SYDNEY  

Live Music and Performance Action Plan

March 2014

city of villages

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Lord Mayor's Message

Live music and performance are vital to the cultural life of Sydney. Our nightlife is enriched by the choice of music and live entertainment on offer in venues ranging from intimate rooms to concert halls and theatres. We have a rich history of discovering and nurturing performers of all kinds, with many of them becoming national and international success stories.

In recent years, however, our local live music and performance scene has declined – venues have closed, there are fewer opportunities for live music and performance, and there are other challenges such as balancing live music with the amenity of residents.

That's why I proposed that the City develop a Live Music and Performance Action Plan, and that we establish an expert taskforce to advise the City on its action.

Council endorsed the public exhibition of the Taskforce's report, *Live Music Matters: Planning for Live Music in Sydney*, on 18 November 2013. This updated action plan incorporates suggestions received during the exhibition period.

Several recommended actions attracted strong support. On 9 December, Council agreed with my recommendation that the City start work immediately on several initiatives. These included investigating how the City's own buildings and outdoor areas can be used as rehearsal and performance spaces; increasing opportunities for young people to enjoy live music; and establishing processes for resolving amenity complaints about live music and performance.

“Our nightlife is enriched by the wide choice of music and live entertainment in venues ranging from intimate rooms to concert halls and theatres.”

Other cities have followed Sydney's lead and established their own taskforces to deal with local challenges facing live music. Their work provides opportunities for sharing ideas and information. We are also talking with our local government neighbours in Leichhardt and Marrickville about how we can work together to ensure live music and performance has a vibrant future.

Clover Moore
Lord Mayor



Clover Moore.



**EXECUTIVE
SUMMARY**

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Bec and Ben performing at FBI Social / Image: Heather Vousden

01 Introduction

From large venues hosting international performers to small and medium-sized venues supporting local acts, the live music and performance sector, like any healthy ecology, includes interdependencies – each part of the sector supports other parts in order for the whole to thrive.

As much as it needs large, iconic performance spaces like the Sydney Opera House or the State Theatre, Sydney needs its small and medium-scale spaces, like Goodgod Small Club, Brighton Up Bar, the Macquarie Hotel and Oxford Art Factory. These spaces provide diversity in Sydney's entertainment offerings and allow performers to forge intimate connections with audiences and each other, and to experiment with new material. They provide emerging artists with opportunities to gain technical and performance experience, market themselves and earn an income.

For many years Australia enjoyed an unparalleled international reputation for the extraordinary live performers and bands that played on its stages. This reputation developed because sufficient opportunities existed for artists to perform and hone their skills in front of live audiences. In his address to the crowd assembled in support of saving the Tote Hotel in Melbourne in January 2010, Paul Kelly asserted the importance of these venues to this development process:

"You don't learn how to write a song in school. You can't do a TAFE course on how to play in front of an audience. These places were my universities... Some of these places are gone but their legacy lives on in the venues under threat today..."¹



In October 2012, the City of Sydney Council unanimously endorsed the establishment of a Live Music and Performance Taskforce (the Taskforce) to advise the City of Sydney on actions needed to bolster Sydney's live music and performance culture.

This endorsement arose from a recognition that live music and small to medium-scale live performance has not been sufficiently supported and valued in Sydney, despite its substantial economic and employment contribution. The City of Sydney asked the Taskforce to consider what actions they could take within its own areas of influence, as well as what advocacy it could undertake to reform state and federal government legislation and processes to improve the situation.

Recent History of Live Music and Performance in Sydney

Live music has always played a significant role in Sydney's cultural life. During the 1950s and '60s our town halls and registered clubs hosted a burgeoning pop and rock scene. The early 1970s saw the establishment of jazz venues such as The Basement and Soup Plus, and from the middle of the decade larger pubs began incorporating live rock into their offered entertainment. Cabaret, alternative theatre and other forms of small to medium-scale live performance also emerged in the 1970s and continued into the '80s, fostered by groups and venues such as Cabaret Conspiracy, Sideshow, Fata Morgana, the Yellow House in Kings Cross, Pastels in Rowe Street, the Tilbury in Woolloomooloo and the Performance Space in Cleveland Street, Redfern. The 'golden age' of commercial live rock began in the 1980s, and brought international recognition to a host of Sydney venues, bands and musicians like Midnight Oil and INXS. During the latter years of this period, regulatory pressure, combined with the introduction of poker machines in hotels, contributed to a decision by many venues (including the Strawberry Hills Hotel in Surry Hills) to replace band rooms with poker machines. Competition for the public's entertainment budget increased further with broadcast sporting events, formerly held on weekend afternoons, shifting to night-time slots, alongside 24-hour sports shown on large-screen televisions. Changes to liquor and planning legislation in the late 2000s saw growth in the diversity of live music venues (restaurants, bars, hotels, halls), but also the closing of a number of iconic venues, either due to management and financial issues, or costs associated with regulatory compliance.



Economic Contribution

In 2011, Ernst & Young released its report, *Economic contribution of the venue-based live music industry in Australia*, commissioned by the Australian Performing Right Association and the Australasian Mechanical Copyright Owners Society (APRA|AMCOS). The report estimated the venue-based live music sector's total industry output to be \$1.21 billion, with NSW the largest contributor (32%) and representing the highest level of industry employment nationwide.² The income and employment that derives from the sector includes not only the employment of musicians, technical crew and artists, but also the tens of thousands of people employed by venues, promoters, suppliers and marketing companies that make up the industry. It is also worth noting that the figure put forward by the report, as significant as it is, was limited to live music performances in Australian pubs/bars, clubs, restaurants/cafes and nightclubs. Although live music performances also occur in other venues such as performing arts centres, concert halls, open public spaces and sporting stadiums and arenas, these were not considered in this study. Including this additional activity would reveal an even greater contribution that the sector as a whole makes to the Australian economy.

Social Benefits

For many, the value of live music's contribution to our city goes far beyond employment and economic benefits. The community's love of live music is evident through its placement as our most popular live performance activity, boasting nearly 44 million attendances across the country in the 2009–10 financial year, four times more than the combined attendances for Australia's major performing arts companies and major arts festivals combined.³ Dave Faulkner, lead singer of the legendary Australian band Hoodoo Gurus, also argued the less measurable benefits in an address to a crowd assembled in the Sydney Town Hall in June 2013:

*"One of the best things music does is it bypasses the conscious mind and the ego and goes straight to our emotions. The communal enjoyment of live music creates a kind of spiritual alchemy among the participants, audience and performer alike, making friends of strangers, everyone united by a shared, joyful experience..."*⁴

In his essay, 'History is Made at Night: Live Music In Australia', Clinton Walker writes in similar terms when he describes live music as 'a ritual of social and artistic communion and transcendence that is increasingly rare in a world of virtualisation, isolation and commodification'.⁵

“beyond the impact of gaming facilities on live music and performance culture in NSW, a range of other factors are contributing to the decline, including the costs and complexity of regulatory requirements, difficulties in managing noise and amenity, changes in leisure culture, changes in popular music styles and formats, financial and legislative frameworks, and the changing composition of audiences reflecting changing community demographics.”

Declining Opportunities for Performers

Despite their multifaceted value, live music and performance opportunities have been diminishing in Sydney. Key findings of the 2003 report *Vanishing Acts: An inquiry into the state of live popular music opportunities in New South Wales* include ‘...a significant reduction in live music venues in New South Wales over the last several years, and in a significant number of venue cases, live music operations have been displaced by gaming facilities’.⁶

The report goes on to demonstrate that beyond the impact of gaming facilities on live music and performance culture in NSW, a range of other factors are contributing to the decline, including the costs and complexity of regulatory requirements, difficulties in managing noise and amenity, changes in leisure culture (such as the introduction of large sports screens into pubs and increased options for home entertainment), changes in popular music styles and formats, financial and legislative frameworks, and the changing composition of audiences reflecting changing community demographics.⁷ The report included data from a 1998 survey undertaken by the NSW Jazz Co-ordination Society and the Musicians’ Union of NSW. It found that 67 per cent of respondents had experienced a loss of employment opportunities and income in the 12 months prior to the survey.

As part of its work, the Taskforce commissioned a study of live music and performance listings in gig guides in the Sydney street press publication *The Drum Media* (now known as *The Music*) that showed a 61 per cent decline over a nine-year period (from 540 in a sample week in 2004 down to 213 in the same period in 2013). Although this research is indicative only, it demonstrates a downward trend in opportunities for musicians and performers in Sydney.

Regulatory Barriers

Since the publication of *Vanishing Acts*, there have been some significant changes in the regulations that affect live music and performance, most notably the removal of NSW Place of Public Entertainment (PoPE) requirements. Nevertheless, some important challenges remain. In a survey undertaken as part of the 2011 APRA|AMCOS report, regulations concerning noise, liquor licensing, occupational health and safety, and planning were again cited by venues (nationally and within NSW) as the biggest barriers to owning or operating a live music venue. Difficulties in meeting the costs of renovating or upgrading venues to provide live entertainment, and increased running costs across the board, were also cited as ongoing problems.⁸

The findings of these research projects are supported by passionately felt anecdotal feedback from the sector and in the media which consistently points to state and federal legislation and local regulatory frameworks as discouraging live music and performance.

“Ultimately it comes down to the value we attribute to art and culture. Why is it more important for the builders next door to start drilling at 7.01 am than for a venue to play music until midnight? ... Activities that are not purely money-driven need external support if we think they are important. But instead, we get vehemently anti-live music councils, ever-changing and ever-more costly compliance orders and regulations that seem fundamentally skewed towards residential property owners ... overzealous licensing cops, a glacial approvals process and mountains of red tape. It’s almost like they don’t want live music venues to survive.”⁹

“There are also notable examples of outdoor community and multicultural events such as the Surry Hills and Newtown festivals or the Greek Festival of Sydney and Yabun. These festivals place music and performance at the heart of their programming and continue to attract broad audiences.”

Commentary, such as the above quote from Sydney hip hop artist Ozi Batla, is supported by a backdrop of Sydney venues continuing to close (the Hopetoun Hotel¹⁰), reducing or ceasing live music programming (the Gaelic Hotel¹¹), or operating with an uncertain future (the Annandale Hotel¹²), for varying combinations of the reasons outlined above. As a result of these challenges, Sydney is sometimes perceived to be a city where latent small and medium-scale live music and performance opportunities are missed because of uncertainty about the regulatory regime¹³ or fear of amenity disturbance investigations and enforcement – and where events occur in secret to avoid the burden of securing approvals through standard regulatory processes. The effect of these challenges is amplified by the often negative media narrative that surrounds the state of Sydney’s live music and performance culture.

Taking Stock

Despite this history and the current challenges, there are reasons to be hopeful. Sydney has a substantial and diverse community of artists and audiences committed to live music and performance, as well as a number of new and existing venues and organisations that have continued to program music and performance events. Venues like Oxford Art Factory, 107 Projects and Venue 505 make a point of supporting new or emerging artists, and a number of Sydney venues have developed loyal audiences by regularly programming particular genres, such as metal and other heavy music at The Bald Faced Stag in Leichhardt, jazz at The Basement in Circular Quay or acoustic performance at The Vanguard in Newtown. There are also notable examples of outdoor community and multicultural events such as the Surry

Hills and Newtown festivals or the Greek Festival of Sydney and Yabun. These festivals place music and performance at the heart of their programming and continue to attract broad audiences. At the same time, Sydney plays host to a range of smaller and more targeted venues, events and organisations, such as Black Wire Records on Parramatta Road, Musical Alaska at Alaska Projects in Kings Cross Parking Station, Goodgod Small Club or The NOW now artist collective, which programs experimental and improvised music events through the year across a range of venues. The removal of Place of Public Entertainment requirements is seen to have contributed to much of this activity.

“Live Music Matters identified 57 short, medium and long-term remedial actions the City of Sydney might take to support live music and live performance...”

The City of Sydney’s role

In order to address some of the challenges, the City of Sydney formed a live music and performance Taskforce. The Taskforce was asked to advise the City on priority actions and best-practice models of support and develop a list of short, medium and long-term actions that would address current barriers for live music and performance.

On 18 November 2013, The City of Sydney Council endorsed the Taskforce’s proposed action plan, *Live Music Matters: Planning for Live Music and Performance in Sydney* for public exhibition. *Live Music Matters* identified 57 short, medium and long-term remedial actions the City of Sydney might take to support live music and live performance; the recommendations comprised changes, new support programs and services, research and opportunities for the City to advocate for changes to specific NSW Government legislation.

Following the 60-day public exhibition period the City received submissions from the community. These submissions were reviewed and a number of changes made to the Taskforce’s initial recommendations in order to finalise the *City of Sydney Live Music and Performance Action Plan*.



High Tension performing at The Metro Theatre / Image: James Patrick

02 The Facts

- The small to medium-scale venue-based live music industry in Australia generated revenues of \$1.21 billion during the 2009-10 financial year.¹⁴
- Total profits and wages generated by the industry in 2010-11 amounted to \$651.9 million. Overall, the venue-based live music industry supported the employment of approximately 14,866 full-time equivalent positions.¹⁵
- During the 2009-10 financial year, it is estimated that 3,904 live music venues in Australia staged approximately 328,000 live performances, equating to approximately 6,300 performances per week.¹⁶
- New South Wales is the largest state contributor to the venue-based live music industry in Australia comprising 32 per cent of industry output; it also provides the most jobs, contributing 4,794 full-time equivalent positions.¹⁷
- The most popular genre of live music staged at the venues surveyed as part of APRA|AMCOS' research was rock/pop, accounting for 38.5 per cent of respondents, followed by 'all styles' with 31.4 per cent and blues/roots/country with 13.9 per cent.¹⁸
- The venues surveyed were also asked what they saw as the barriers to owning/operating a live music venue. The impact of the current regulatory environment for live music venues (69.1%) and the cost of talent (61.7%) were the biggest issues recorded by respondents. Of the 12.8 per cent of respondents that selected 'other', the most common barriers listed were music licence fees and the cost of security.¹⁹
- As at November 2013 there were 2,268 liquor-licensed premises in the City of Sydney local government area (1 in 8 of all licensed premises in NSW). Of these premises, only 143 (6.3%) held an APRA|AMCOS licence for programming live music as part of their business offer.²⁰
- Of the 143 APRA|AMCOS live music-licensed venues in the City of Sydney in November 2013, 61 (43%) reported expenditure or box office receipts of up to \$10,000 during 2012, 63 (41%) reported between \$10,000 and \$100,000, and 19 (13%) reported over \$100,000.²¹
- In 2012, the City of Sydney's call centre received 2,829 noise-related enquiries or complaints. Of these, 105 (less than 4%) were in connection with premises that programmed live music.
- These enquiries related to 36 separate venues (25% of the total number of APRA|AMCOS live music-licensed premises in the City of Sydney).²²
- A survey of city visitors, venue goers and residents/businesses investigating community attitudes toward live music and performance revealed that 94 per cent of people agree that live music and performance is an essential aspect of Sydney's identity as a cultural and creativity city. Only 9 per cent agreed 'that the world has changed and live music and performance is no longer relevant'. Of all respondents 82 per cent agreed that venues that provide live music or performance offer a safer and more welcoming environment.
- Of the residents and businesses located within 250 metres of a live music or performance venue, 60 per cent indicated that there were no disadvantages associated with being located near a venue.

03 The Challenges: Development Controls and Noise

Challenges

- **Uncertainty:** There is lack of certainty for venues, event producers, residents and businesses due to regulatory inconsistencies and administrative duplication, across local and state legislation and administrative bodies.
- **Knowledge:** There is a low level of awareness within some parts of the live music and performance sector about how Council's planning and regulatory system functions, the expectations of other regulatory bodies and who to speak to about these issues, combined with a similarly low level of awareness of sector needs by regulatory bodies.
- **Development application process:** The development application process can be disproportionately burdensome or unsuitable for some music and performance activities. It can also be administratively burdensome and prohibitively expensive for many cultural applicants.
- **Noise and amenity management:** The City of Sydney's processes for responding to amenity and noise complaints can be unclear for venues.

Actions

- 1 **Review** the Sydney Development Control Plan (DCP) to optimise its support for the live music and performance sector by identifying and protecting areas with strong traditions of live music and performance, and by supporting areas where urban and cultural amenity can be improved by live music and performance activity.
- 2 **Investigate** opportunities in City of Sydney planning controls to streamline approval processes for low impact live music and performance activity, including consideration of expanded Exempt and Complying Development provisions in the Sydney *Local Environmental Plan*.
- 3 **Establish** a City of Sydney live music and performance liaison officer.
- 4 **Ensure** standard conditions of development consent are informed by international best practice support for cultural development.
- 5 **Advocate** legislative reform to remove duplication relating to noise regulation through the *Environmental Planning and Assessment Act 1979*, *Protection of the Environment Operations Act 1997* and *Liquor Act 2007*.
- 6 **Review** City of Sydney policies and protocols, refine the process for assessment of 'offensive noise' and develop City policies to address outdated development consent conditions.
- 7 **Develop** training and induction resources to support awareness of the City's cultural strategies among City of Sydney planning and regulatory staff.
- 8 **Establish** a policy and process that includes alternative dispute resolution options for live music and performance venues in the City of Sydney.

04 The Challenges: Building Code of Australia (BCA)

Challenges

- **Information resources:** There is a lack of accessible, free, easy-to-read, and useful information about the BCA and its interpretation.
- **Cost of advice:** Procuring bespoke advice from BCA consultants is too costly for many creative initiatives, particularly for small-scale or short-term projects.
- **Compatibility of the BCA with creative practice:** The BCA's definitions and approach do not support hybrid activity in many venues that program live music and performance.
- **Low-frequency noise:** There is no Australian Standard dealing with audible low-frequency noise, despite its potential impact on overall noise levels and amenity.

Actions

- 1 **Produce** accessible information resources about the BCA for the live music and performance sector.
- 2 **Develop** a pre-lodgement process to provide bespoke advice and support for the development of temporary or non-traditional performance spaces.
- 3 **Monitor** the impacts of the BCA on creative practice (based on the University of Melbourne model) and participate in joint advocacy with the Live Music Office to the Australian Building Codes Board for changes to the BCA in support of the live music and performance sector.
- 4 **Host** a public symposium to bring together regulatory authorities and the creative community prior to the 2015 review of the BCA.
- 5 **Research** the impacts of audible low-frequency noise.
- 6 **Advocate**, in partnership with the Live Music Office, the establishment of an Australian Standard to manage audible low-frequency noise transfer.

05 The Challenges: Liquor Licensing

Challenges

- **Duplication or lack of administrative coordination:** The City of Sydney, the Office of Liquor, Gaming and Racing (OLGR) and the Independent Liquor and Gaming Authority (ILGA) all play roles in establishing a licensed venue. Each works to its own timelines and administrative requirements. This lack of administrative coordination extends the timeframes and financial cost of establishing a live music or performance venue.
- **Lack of transparency in decision making:** Closed decision-making processes governing how ILGA determines licences result in uncertainty and additional financial costs for proponents trying to establish a live music or performance space.
- **Demonstrating lower risk:** Preliminary research supports a widespread sector view that audiences at live music and performances consume significantly less alcohol than patrons of other forms of hotel-based entertainment, and can therefore lower the licensing risk for a venue. However, there has been insufficient research to confirm this.
- **Liquor freezes, 'lockouts' and licensing saturation management tools:** Measures put into place by the NSW Government – such as liquor freezes or lockouts, and liquor licensing saturation management tools like The Environment and Venue Assessment Tool (which was developed to address the cumulative impacts of licensed premises), may have the unintended consequence of restricting the establishment of culturally focused, liquor-licensed, live music and performance venues in key locations.
- **Temporary liquor licensing:** Current processes for procuring short-term licences are burdensome for small operators and disproportionate to the impact of small-scale activity.

Actions

- 1 **Communicate** the issues affecting the live music and performance sector to OLGR and ILGA using the City of Sydney's Memorandum of Understanding and quarterly meeting framework; explore ways to align processes and minimise costs for applicants; develop complementary information resources; and advocate greater transparency in the licence determination process including a new public City and state government committee to exercise both planning and licensing powers in relation to new or significant amendments to licensed premises.
- 2 **Research** alcohol consumption patterns in live music and performance venues in order to identify and assess lower-risk business models focused on cultural activity.
- 3 **Advocate** more appropriate liquor licensing conditions for live music and performance venues based on the outcomes of the above research, the nature of these venues and their contribution to the cultural life of the city.
- 4 **Encourage** the NSW Government to consider exemptions for venues whose primary purpose is live music and performance in relation to the liquor freeze, lockouts and liquor licensing saturation management tools, where it is demonstrated that such venues will not increase the risk of violence or antisocial behaviour.
- 5 **Advocate** streamlined and more flexible processes for accessing temporary licences where cultural benefit and low impact can be demonstrated.

06 The Challenges: Audience & Sector Development

Challenges

- **Monitoring the City's relationship with venues:** There are no formal methods or processes for assessing the quality of the City's relationship with live music and performance venues in Sydney.
- **Sector data:** There is a lack of clear useful data to track the development of the live music and performance sector over time.
- **Missed opportunities:** Many venues in the City of Sydney have the capacity to program live music or performance as part of their offerings, but do not do so.
- **Exclusivity and visa requirements:** Current industry practice and visa requirements restrict the ways in which local musicians might collaborate with visiting international artists.
- **Rehearsal space:** There is a lack of affordable rehearsal space across the performing arts, including rehearsal space for music ensembles and bands of all genres.
- **Transport:** Current City of Sydney policies, derived from NSW Government regulations and transport infrastructure, limit transport and parking options for performers and audiences.
- **All ages:** There is a lack of infrastructure and programs to support the development of a sustainable all-ages live music scene.
- **Hireable, non-curated venues:** There are limited opportunities for staging independent productions and concert series outside established curated venues and festivals.
- **Events in the public domain:** A range of factors reduce the viability of outdoor performance, including the limited range of suitable outdoor event spaces, busking regulations and inconsistencies in the regulation of outdoor events.
- **Marketing:** Lack of marketing resources inhibits the ability of many small- and medium-sized venues to compete for audiences.
- **Disability access:** A complete picture of current disability access standards in Sydney does not exist, and general awareness around how to achieve access is low.
- **Affordable housing:** Housing in the inner Sydney area is often unaffordable for creative workers, including musicians and performers.



Actions

- 1 **Establish** a venue-satisfaction survey and formal network of live music and performance venues to meet biannually in order to build relationships and discuss issues of concern.
- 2 **Develop** a data-collection program for the live music and performance sector in collaboration with the Live Music Office; and require City funded festivals to provide data regarding local employment.
- 3 **Establish** a Music and Performance Program Coordinator role based at an appropriate peak body, supported by a financial contribution from the City, to assist first-time venues find, select and program live music or performance.
- 4 **Consider** options to develop financial assistance programs – such as a matching grant, loan or concession program – to support the capital costs associated with venues establishing live music and performance events.
- 5 **Work** with the federal Department of Immigration and Border Protection and the music sector to foster opportunities for international musicians and artists to work with local artists and venues.
- 6 **Collaborate** with the Australian Hotels Association and Music NSW to make appropriate, unused hotel spaces available for music rehearsals.
- 7 **Review** City properties for suitability as rehearsal spaces and ensure rehearsal space is considered in future commercial developments wherever suitable.
- 8 **Ensure** that parking controls adjacent to cultural and live music facilities balance the needs of all users as part of the review of the City's *Neighbourhood Parking Policy*.
- 9 **Implement** parking control schemes that enable musicians to legally load and unload equipment.
- 10 **Establish** a grant program for venues and organisations wanting to hold all-ages events.
- 11 **Optimise** City-owned indoor and outdoor facilities for use as live music and performance venues by augmenting existing equipment with appropriate sound, lighting and seating infrastructure, and issuing licences to enhance their use as performance venues.
- 12 **Allocate** \$20,000 matched funding to APRA|AMCOS to develop a campaign to support local musicians to play live in local venues.
- 13 **Advocate** the establishment of a new major outdoor event space for the inner Sydney area.
- 14 **Review** City of Sydney busking policies to minimise red tape; and explore opportunities to support the sector through, for example, online and other audience development channels.
- 15 **Advocate** to the NSW Government for greater clarity and consistency in the user-pays policing process.



Collarbones performing at Jurassic Lounge in the Australian Museum / Image: Diabolique Photography

- 16 **Develop** collaborative marketing strategies with the live music sector, using the City's own marketing platforms and leveraging its media relationships where possible.
- 17 **Support** training and skills development about disability access and live events in consultation with Accessible Arts, and investigate options to establish a 'Gig Buddies' style program.
- 18 **Ensure** that City of Sydney-run creative live-work projects encourage applications from musicians and performers.
- 19 **Advocate** the inclusion of musicians and performers in affordable housing schemes.
- 20 **Provide** space in suitable City properties for innovative start-up businesses that support live music and performance.
- 21 **Advocate** to the NSW Government to establish a live music and performance community development fund from gaming revenue.

07 Definitions

The Taskforce limited its focus to activity involving live performance events for audiences at venues and in the public domain, with a particular focus on small- to medium-scale venues and activity. 'Live music' was defined broadly to include music performed by singers and instrumentalists in bars, pubs, theatres, restaurants and clubs as well as in non-traditional venues including car parks, warehouses and shops, and in public spaces in urban areas. 'Live performance' was defined as other forms of performance including, but not limited to, theatre, dance, cabaret, drag, stand-up comedy and spoken-word events.

To date there has been little differentiation between the characteristics of live performance and entertainment focused on recorded music. While recognising the importance of nightclubs, DJ-led parties and other similar activities to the city's night-time economy and reputation as a global city, the role of this taskforce was contained to the issues facing live musicians and performers.

08 Policy Context

A range of policies, strategies and Council documents already endorsed by the City of Sydney are relevant to the *Live Music and Performance Action Plan*. These include:

- *Sustainable Sydney 2030*
- *OPEN Sydney: Future directions for Sydney at night*
- *Creative City Cultural Policy and Action Plan 2014-2024*
- *Economic Development Strategy*
- *Retail Action Plan*
- *Tourism Action Plan*
- *Sydney Development Control Plan 2012*
- *Sydney Local Environmental Plan 2012*
- *Grants and Sponsorships Policy*
- *Compliance Policy and Guidelines*
- *Busking Policy and Guidelines*.



09 Glossary of Terms

APRA | AMCOS

Australasian Performing Right Association Limited and
Australasian Mechanical Copyright Owners Society Limited

ARIA

Australian Recording Industry Association

BCA

Building Code of Australia

ILGA

Independent Liquor and Gaming Authority

OLGR

Office of Liquor, Gaming and Racing

EVAT

Environment and Venue Assessment Tool

'The City'

The City of Sydney

LGA

Local Government Area

Taskforce

City of Sydney Live Music and Performance Taskforce

POEO

Protection of Environment Operations Act

SEPP

State Environmental Planning Policy

LEP

Local Environment Plan



Bow and Arrow performing in Hyde Park for NAIDOC Week 2013 / Image: Joseph Mayers



ACTIONS

2



Eternity Playhouse launch / Image: Adam Hollingworth

01 Development Controls and Noise

SUMMARY OF ISSUES

The City of Sydney has a variety of functions as a development consent authority and as a regulatory body responsible for managing public health and amenity. It has power to set and implement planning strategy, institute development controls, approve development and set conditions for development. The City of Sydney is also able to take compliance action under legislation to maintain public health and amenity, principally through the *Protection of the Environment Operations Act 1997*. By enacting these functions, the work of City of Sydney officers can have a significant impact on the viability of the live music and performance sector.

In 2011 Ernst and Young produced a report commissioned by the Australian Performing Rights Association and the Australasian Mechanical Copyright Owners Society (APRA|AMCOS), *Economic contribution of the venue-based live music industry in Australia*, included survey-based research into the barriers to owning and operating a live music venue. Regulatory issues (e.g. noise restrictions, liquor licensing, Occupational Health and Safety, planning, music licence fees and the cost of security) were identified by 69 per cent of respondents as the principal barriers they faced.

Of all of these regulatory challenges, those related to noise are of most concern to the sector. Community concern about the impact of noise generated by live music and performance events, the disparate ways in which it is regulated, and neighbour complaints, can have catastrophic impacts on the business viability of a live music venue.

There is a broadly held perception that a large number of noise complaints are made against live music and performance venues in Sydney. However indicative research undertaken by the Taskforce²³ suggests that complaints about noise emanating from live music and performance venues are not as widespread as believed. In 2012, the City of Sydney's call centre received 2,829 noise-related enquiries or complaints. Of these, 105 enquiries (less than 4 per cent) were connected with live music venues. These enquiries related to 36 separate venues (25 per cent of the total number of APRA|AMCOS-licensed premises in the City of Sydney).²⁴

These figures suggest that even though amenity disputes involving live music or performance are comparatively rare and constitute a small percentage of the overall noise complaints in our city, one in four of the City's live music premises have been subject to noise and amenity investigations that could have significant, damaging effects on their live music activity. This operating environment contributes to the perception that programming live music or performance in Sydney is problematic for venues and residents alike, and likely to create discord rather than cohesion in a local community. It also highlights that noise from entertainment and licensed premises is only a small part of the broader issue of noise in high-density areas and that strategic efforts to manage live music and performance noise must be considered as part of a holistic approach to managing inner-city noise of all types. The City's Health and Building unit has started work on such a strategy and noise from live music and performance, as well as licensed venues, will be included in its development.



There is also significant duplication in legislation and regulation of noise that is causing uncertainty for venues and the community. There are three separate pieces of state legislation governing the impacts of live music and performance activity (*the Protection of the Environment Operations Act 1997*, the *Environmental Planning and Assessment Act 1979* and the *Liquor Act 2007*). The various pieces of legislation are implemented by a number of regulatory authorities including the City of Sydney, the NSW Police and OLGR, so that at any given time, venues that provide live music and performance are subject to a number of regulatory regimes. This increases costs, confusion and complexity for venue operators and makes programming live music and performance an unnecessarily uncertain endeavour. This subject is discussed further in section 1.5.

The example of the Annandale Hotel (see case study on page 29) reveals the tenuous environment that live music and performance venues operate within. It demonstrates that even venues that are well managed, supported by the NSW Police and Council planning staff, make genuine attempts to develop relationships with neighbours, and have the support of the majority of the community, cannot trade with the certainty of protection from compliance measures arising from amenity complaints.

The City of Sydney's regulatory and compliance functions are necessarily enacted within this highly complex regulatory environment; however, there are opportunities to use its planning and compliance policies and processes to support the development of a sustainable future for the live music and performance sector. Likewise, the City can advocate changes to state legislation to eliminate the confusion and contradiction of the three sets of legislation and develop a more harmonious balance between residential amenity and a vibrant live music scene.

A meaningful commitment to supporting the growth of the live music and performance sector in the City of Sydney means a commitment to creating greater certainty among new and existing venues about their trading conditions. To achieve this, the City will develop formal policies, programs and methodologies relating to live music and performance through:

- Planning for the future character of an area or suburb
- Regulating development
- Responding fairly, openly and consistently to noise amenity concerns
- Ensuring close and positive relationships with the live music and performance sector
- Increasing communication between stakeholders, including managing expectations and promoting alternative dispute resolution.

Across all these areas, from strategic land-use planning and policy development to the assessment of specific development applications and investigating localised noise disturbance complaints, there are opportunities for the City of Sydney to create an environment that actively supports the live music and performance sector, rather than simply regulating it.



Richard Hawley performing at Paradiso at Sydney Town Hall as part of Sydney Festival / Image: Ryan Kitching

Order of Occupancy

Venues that host live entertainment are by nature vulnerable to noise complaints arising from their programming, or amenity issues resulting from audience behaviour when arriving or departing from the venue. Increasing residential densities in traditional live music precincts have contributed to a loss of performance opportunities in local hotels, often as a result of noise complaint processes that did not take into account the order of occupancy between the venue and the complainant, or the structural and material changes to premises, or changes in the entertainment activity in the licensed premises over time.

Order of occupancy is sometimes called ‘agent of change’, which places the onus on the party who has interrupted the status quo, either by introducing music, or moving in next door. ‘Prior use’ principles describe when an activity is indexed to the use of premises, such as a hotel, which may not host live entertainment all the time but has been a fixture in the local area. There is a reasonable expectation that live entertainment is an activity normally associated with consent for this type of land use.

Although residents who are neighbours of venues have the right to expect a reasonable amount of amenity, order of occupancy considerations can help in noise complaint processes to prevent unreasonable expectations of the types of activity occurring in inner city areas, and where residential and hospitality industry venues are in close proximity.²⁵

These principles are currently included in NSW, Queensland, Western Australian and South Australian Liquor Acts. Support for order of occupancy principles can be found in a range of actions in this report including advocating changes to inconsistent noise and amenity legislation (section 1.5), processes governing the City’s investigation of noise and amenity complaints (section 1.6), and the development of a mediation process for residents, businesses and live music and performance venues (section 1.8).

CASE STUDY

The Annandale Hotel

The Annandale Hotel is an iconic live-music venue situated on Parramatta Road, Annandale, in the Leichhardt Municipal Council local government area. Although ownership has changed over time, it has operated as a live music venue almost constantly since the early 1980s. In 2004, while operating under development consent to trade until 3am on Thursdays, Fridays and Saturdays (on a trial basis), the hotel submitted an application to Leichhardt Municipal Council seeking the right to trade until 3am permanently on these nights. Although objections were received from a small number of local residents, there was significant support from the rest of the community and the NSW Police. Council staff assessed the application and recommended to Council that the application be approved. The recommendation stated that, based on the assessment, no unreasonable loss of amenity would occur for local residents. It also noted the cultural contribution of the venue and the support of the NSW Police. Despite the recommendation, the Council of the time voted 10:2 in favour of rejecting the application, deeming it not to be in the public interest.

The operators of the Annandale Hotel appealed this decision in the Land and Environment Court. Noting further objections from nearby residents but also the support of the community and NSW Police, in 2007 the Court granted a continuation of the trial, but only until 1am and subject to conditions regarding management of complaints, parking and patron dispersal. In 2009 the Court granted ongoing approval for late trading until 1am after taking into account the objections of a few local residents. In the ruling, the Court categorised these objections under the headings 'Antisocial Behaviour', 'Rubbish' and 'Parking' and stated that none of the reported impacts were supported by sufficiently compelling evidence or were unable to be managed through adherence to a Plan of Management by the Annandale Hotel, or through policy development by Leichhardt Municipal Council.

The ruling also noted that although the Annandale's management had attempted to have regular meetings with the neighbourhood to provide a forum to deal with any antisocial behaviour concerns, 'most of the residents have not availed themselves of the opportunity to discuss any issues with the hotel management'.²⁶

Although the outcome of the cases was generally in favour of the Annandale Hotel, the personal and financial cost to the hotel management arising from the court case was enormous, with financial costs reported as exceeding \$200,000 (the Land and Environment Court only issues directions for costs in merit appeals in exceptional circumstances). The hotel initiated fundraising efforts including a 'Buy-A-Brick' campaign to help recoup some of its court costs and the expanding repayment requirements from the venue's bank. However, the hotel was unable to reach agreement on repayment terms with its bank and was placed into receivership in February 2013.

“It is commonly accepted that one of the primary points of conflict that arise from such mixed communities is in relation to the volume of amplified music emitted by nightclubs, bars, pubs and live music venues, particularly after midnight, as well as the way in which audiences are managed inside and outside the venue.”

ACTIONS

1.1 Reviewing the Sydney Development Control Plan to support live music and performance

Through the development of *Sustainable Sydney 2030* and associated strategies such as *OPEN Sydney*, the City of Sydney Council has endorsed the development of varied and mixed communities in appropriate locations that include residents, nightclubs, live music venues, cafes, restaurants and retail businesses. The Sydney Development Control Plan 2012 (DCP) similarly notes the variety of uses found in different parts of the City through its ‘locality statements’, and seeks to maintain this character by recognising and reinforcing the ‘distinctive characteristics of the City of Sydney’s neighbourhoods and centres’. At the same time, through the establishment of a Live Music and Performance Taskforce in 2013 and the development of the City of Sydney *Live Music and Performance Action Plan*, the City has recognised a need to support Sydney’s live music and performance sector.

It is commonly accepted that one of the primary points of conflict that arise from such mixed communities relates to the volume of amplified music emitted by nightclubs, bars, pubs and live music venues, particularly after midnight, as well as the way in which audiences are managed inside and outside the venue.

As well as recognising the need to review the late-night trading provisions of the Sydney Development Control Plan, *OPEN Sydney* recognises the importance of supporting the growth of the night-time economy in appropriate locations through consideration of ‘a range of policy options to encourage appropriate night-time economy growth in new areas’.

This will be achieved through a review of the Sydney Development Control Plan and the designation of live music and performance areas therein. Such areas are locations within the City that contain, or have the ability to contain, a range of cultural venues and activities along with supporting business types such as food and retail. By amending the DCP to identify existing areas and locations for growth, the City can begin to plan for the future of live music and performance sectors. This process will be similar to that undertaken to establish the City’s current ‘late-night management’ areas, but undertaken with more specific aims and objectives. By using planning controls within the DCP to create an environment that supports the growth of the live music and performance industry, the City can set clear and equitable parameters for providing live performance in inner-city areas that include residents and visitors, as well as venues and business.

“In order for a global city to maintain a thriving live music and performance culture it must be able to support not just large-scale and permanent events and venues, but also low-impact and small-scale activity as well.”

The City can play a powerful role in supporting live music and performance activity by using the Sydney DCP to support existing venues and identify areas that can be developed to cater for future needs. The aim is to utilise planning mechanisms to create a receptive environment for live music and performance venues in these areas, similar to the aims of the Fortitude Valley Entertainment Precinct, but taking into account Sydney’s specific urban context and with a focus on support for live music and performance.

The City emphasises that it is not attempting to confine live music and performance activity to these areas only. Cities with great live music traditions have music scenes that evolve organically in a range of traditional and non-traditional spaces.

A review of the DCP will be undertaken as an early priority project of the *OPEN Sydney* strategy. It will include a review of the current late-night trading provisions and development of new provisions specifically for live music and performance. It is possible that the development of prescribed cultural areas could align with existing late-night management areas, as well as identify new areas that are appropriate for future support. Relevant project elements to be considered are:

- 1 Setting specific minimum standards of noise attenuation for new residential developments, including standards for audible low-frequency noise (an approved *OPEN Sydney* action²⁷ and discussed further in section 2.4).
- 2 Developing specific definitions for different types of live music and performance venues and ascribing appropriate risk categories for each, taking into account compliance history and capacity.
- 3 Setting area-specific uniform noise emission levels for venues.
- 4 Allowing appropriate trading conditions for venues hosting live performance, subject to good management and trial periods.
- 5 Applying commensurate security conditions for low risk live music and performance venues.
- 6 Working with venues in areas that have multiple development consents to consolidate these into a single consent (also an approved *OPEN Sydney* action²⁸).
- 7 Lobbying the NSW Government for legislative reform to reduce duplication in the regulation of noise and amenity (discussed further in section 1.5).



Any changes to the DCP to support of live music and performance will be most effective if accompanied by a range of actions that encourage communication between stakeholders, and help inform and educate the community about the benefits and responsibilities associated with the changes, such as:

- Significant and ongoing community engagement throughout the review process and its implementation.
- Development of tools that build awareness of common sound levels throughout the city's late-night management areas and cultural areas to help manage the community's expectations of noise levels in or near these areas (also an action included in *OPEN Sydney*).²⁹
- Development and dissemination of pre-emptive noise attenuation advice for both business and residential tenants, including cost-effective methods for controlling noise and information on the value of professional acoustic advice.
- Development of a formal mediation process for amenity disputes between music and performance venues and businesses or residents (discussed further in section 1.8).

1.1.1 Action: *Review the Sydney Development Control Plan 2012 to optimise its support for live music and performance by identifying and protecting areas with strong traditions of live music and performance, and by supporting areas where urban and cultural amenity can be improved by live-music and performance activity.*

1.2 Streamlining processes for low-impact live-music and performance activity

In order for a global city to maintain a thriving live music and performance culture it must be able to support not just large-scale and permanent events and venues, but also low-impact and small-scale activity as well. 'Red tape' is often mentioned as a key barrier for grassroots activity, and it has been cited as a priority issue in a number of government reports, including the NSW Government's *Final Report of the Visitor Economy Taskforce* and the City of Sydney's own *OPEN Sydney* strategy and *Creative City* cultural policy.

As the body responsible for regulating the majority of development in the inner city, the City of Sydney has a particular role in analysing regulatory barriers for low-impact live music and performance. In enacting its role as a consent authority, the City uses a range of planning instruments that can be amended to improve its support for the sector.

For example, most producers or artists who want to stage small-scale or temporary live music or performance activity are required to lodge a development application. This process can be time consuming and costly, and is often required for activity that has minimal impact on the surrounding environment. *Sydney Local Environmental Plan 2012* and the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* set out the forms of development that can be undertaken without the development application process (exempt development), or that require assessment, but are not large enough to warrant a full development application (complying development). On 22 February 2014 changes to the SEPP came into force, including expanded Exempt and Complying Development categories for structures such



as marquees and stages for community events. While these recent changes do not explicitly include low-impact live music or performance activity, they will be of benefit to community event producers. The City will explore and promote their use within the live music and live performance sector.

The Temporary Use of Council Land provisions under Clause 3.1 of Schedule 2 of the *Sydney Local Environmental Plan* classify certain activities occurring on City of Sydney owned or controlled land as 'exempt development'. Activities must not exceed 52 days a year, the use should not impact adversely on the surrounding environment, and the building where the activity is taking place must be Building Code of Australia-compliant for the intended use and not listed on the State Heritage Register. These provisions aim to make use of City land easy, and to reduce the time and cost of producing events, provided the above conditions are met.

The City will review its current planning instruments to identify further ways to reduce regulatory complexity and costs for certain types of temporary or low-impact activity. For example, a review of the *Sydney Local Environmental Plan 2012* and expansion of the current Exempt and Complying Development provisions in the LEP to include, in certain circumstances, certain types of low-impact live-music or performance activity on private land would provide significant benefit to the community and cultural life of the city. Additionally, such work will allow the City to develop a process similar to the rigorous, fast and simple Temporary Theatre Licence process developed by the City of Edinburgh (case study included in section 2.2) that accommodates events in non-traditional performance venues during the Edinburgh Fringe Festival each year.

For these provisions to be expanded and a complying development process developed, the City will need to develop new definitions for live music and performance within the LEP. In addition to considering these amendments to its own LEP, there are also opportunities for the City to push for the introduction of definitions for live music and performance within the *State Environmental Planning Policy (SEPP)*, so that these provisions can be utilised by other councils across the state. The amendments that came into force during February 2014 indicate a willingness by the NSW Government to consider expansion to the SEPP, and City staff will advocate the inclusion of provisions for live music and performance.

1.2.1 Action: Review City of Sydney planning controls to identify opportunities to streamline approval processes for small-scale and temporary live music and performance activity, including the development of definitions for small to medium-scale live music and performance and consideration of expanded "exempt and Complying Development" provisions in the *Sydney Local Environmental Plan 2012*.

1.2.2 Action: Advocate to the NSW Government to amend the *SEPP Exempt and Complying Development Codes 2008* to include definitions and provisions for live music and performance.

CASE STUDY

Fortitude Valley, Brisbane

Fortitude Valley is Brisbane's most popular and dynamic entertainment hub, well known for its atmosphere and live music, nightclub and arts scene. As in Sydney, since the mid-1990s inner-city Brisbane suburbs such as Fortitude Valley have become gentrified and attracted many new residents. Also similar to Sydney, one of the main causes of conflict in relation to the night-time economy of the area has been the volume of amplified music emitted by venues.

Brisbane City Council sought to address these issues by developing the Valley Music Harmony Plan ('the Plan'), with the following policy aims:

- To manage the impacts of music noise upon residents and businesses in an integrated way, without compromising the viability of the music-based entertainment industry in the Valley or the vibrancy of the Valley, and
- Promote and enhance the Valley as a valuable incubator for the development of original live music of all types and styles.³⁰

The Plan was developed 'from the ground up' by involving stakeholders in the problem-solving process. Face-to-face interviews, consultation forums and workshops were held with representatives from music venues, the music industry, government departments, the property development industry, commercial organisations, community groups, patrons, residents and the wider community, in order to help scope issues and solve problems.

Once developed, the Plan included five key actions:

1. Recognising Fortitude Valley as an entertainment precinct. It was proposed that the Fortitude Valley Local Plan be amended to give formal recognition of the Valley as an entertainment precinct.
2. Amending the Fortitude Valley Local Plan, Bowen Hills Local Plan and Newstead Local Plan to:
 - Require new residential type development to be designed and constructed to achieve a minimum noise reduction of 25 decibels in the 63 hertz frequency band when constructed within the Valley special entertainment area and a minimum noise reduction of 20 decibels in the buffer area.
 - Require new music venues to be designed and constructed to achieve specified minimum noise emission levels.
3. Adopting uniform noise emission levels for music venues.
4. Assisting Valley music venues, businesses and residents by providing advice and information for improving noise management.
5. Developing and implementing a communication strategy to improve relationships between stakeholders and help prevent future complaints.³¹

The implementation of the project involved a number of innovative steps, including removing duplication of noise regulation through legislative change, and the creation of 'The Valley Sound Machine' (<http://bit.ly/ZeUgRe>), which helps visitors and potential residents understand the night-time valley environment by letting them experience simulated noise levels at different times and places in the precinct. The Fortitude Valley Special Entertainment Precinct was created on 1 July 2006. It is considered to be an innovative and effective method for supporting entertainment through an urban planning framework.³²

“...one of the most powerful ways that the City can assist the sector is by providing guidance on navigating the different units within the City of Sydney, as well as brokering engagement with other government bodies.”

1.3 Providing guidance on the regulatory regime and City of Sydney processes

There are few resources or easy-to-read information guides available about the regulatory requirements associated with running a venue or producing events, and low awareness about the right City staff to provide such guidance. A theatre space and venues audit undertaken in 2011 by Elizabeth Raupach in South Australia found that groups wanting to set up temporary venues are ‘often sent from one authority to the next and they received inconsistent advice within departments, unreasonable lists of conditions and contradictory advice from different departments’.³³ Going further, Raupach states that ‘artists report that they don’t mind complying with appropriate legislation, if only they could work out how to go about it’.³³ While this research is focused on South Australia and specifically relates to temporary venues, there is much feedback from the sector that suggests similar experiences are common in navigating the regulatory regime in Sydney. Recent research undertaken by the City of Sydney³⁴ looking at the process for holding events in the public domain reinforces these perceptions. The study found that one of the most powerful ways that the City can assist the sector is by providing guidance on navigating the different units within the City of Sydney, as well as brokering engagement with other government bodies.

Sydney’s lack of information resources encompasses a broad range of issues including the development application process, food safety, crowd management, waste management, acoustic reporting and more. While there are a number of procedural and legislative inconsistencies that contribute to this problem (detailed in section 1.5), a lack of clarity about standard expectations and who to contact contributes to a perception that staging live music is difficult and uncertain.

The City of Sydney Business Advisor (Finegrain) role was created as a way of providing general advice to small-scale, diverse and innovative businesses, including small bar proponents, and diversifying the licensed environment in Sydney. This role was designed to encourage small bars and specialty, ‘finegrain’, retail activity, and to guide business operators through the regulatory process. It has proven to be a highly successful model as it has increased the knowledge and skills of these business operators and helps manage expectations about what can be achieved. Given the multifaceted nature of the regulatory requirements associated with live music and performance, the City will establish a similar role with a direct focus on guiding proponents through the regulatory process of establishing and maintaining live music and performance venues and projects.

1.3.1 Action: *Establish a live music and performance liaison role that acts as first point of contact for regulatory enquiries and applications in relation to live music and performance.*

1.3.2 Action: *Develop information guides in multiple formats that provide specific information on the planning requirements and resources available for setting up a temporary or permanent live music or performance venue in the City of Sydney.*



1.4 Reviewing Standard Conditions of Development Consent in support of live music and performance

Although the City of Sydney can apply specific conditions to a particular development, it has also produced a series of conditions that are common to most development approvals (“standard conditions”). The vast majority of development applications received by the City have standard conditions applied, which make them a powerful tool in regulating live music and performance.

The City’s Health and Building unit in conjunction with Planning staff regularly review the standard noise conditions imposed on development consents. These reviews can include conditions to ameliorate noise impacts from certain land uses, including entertainment venues and licensed premises. Some of the areas for review relating to licensed and entertainment venues will include:

- Consolidation of similar conditions to reduce the number of noise-related conditions
- New conditions to ensure better quality of acoustic reports prepared by consultants and submitted with development applications
- Amended or new conditions to address noise arising from venues.

In order to bring greater simplicity and certainty for venue operators and the community, and recognition that improved standards may reduce future noise complaints, the City will ensure that future reviews of noise conditions consider international best practice in supporting cultural activity and the likely impacts of any proposed changes for venues.

1.4.1 Action: *Ensure that the review of Standard Conditions of Development Consent is informed by international best practice approaches in supporting local cultural activity, and that any changes proposed to the City of Sydney Standard Conditions for Development Consent consider likely impacts on the live music and performance sector.*

“The confusion, inconsistency of approach and uncertainty that exists for venues in NSW is one of the most pressing issues facing live music and performance in Sydney. The City will take a lead role in advocating for legislative change such that venue-based noise is regulated through one legislative framework only.”

1.5 Certainty for venues, businesses and residents in the regulation of noise and amenity

There are three separate pieces of legislation regulating the emission and impacts of noise in NSW:

- *Protection of the Environment Operations Act 1997* (POEO Act)
- *Environmental Planning and Assessment Act 1979* (EP&A Act)
- *Liquor Act 2007*.

The POEO Act is concerned with managing pollution, including noise, and its impact on public health. The EP&A Act requires that development assessment take into account amenity impacts, including noise impacts, arising from proposed uses and enables those impacts to be managed by conditions of consent. The Liquor Act regulates premises that sell liquor, including disturbances to the quiet and good order of the neighbourhood around those premises. Each piece of legislation applies noise criteria to live music and performance venues and is enforced using varying criteria, processes, priorities and resources.

This has created a complex and uncertain environment for live music and performance venues as they may be required to operate within three separate sets of requirements relating to the noise their venues produce. The confusion and inconsistency of approach is one of the most pressing issues facing live music and performance in Sydney. The City will take a lead role as an advocate for legislative change so that venue-based noise is regulated through only one legislative framework.

The Queensland *Environmental Protection Act 1994* (the Queensland equivalent of the POEO Act) has an exemption from its noise provisions for noise produced by venues regulated by the Queensland Liquor Act or venues holding a development permit authorising the noise. The Brisbane City Council created a further exemption from the noise requirements of the Queensland Liquor Act for music venues located within the Fortitude Valley Special Entertainment Precinct. This ensured that only one noise law applied to music venues within the entertainment precinct. There are precedents for this type of reform in NSW, most notably Clause 95 of the POEO (General) Regulation 2009, which exempts Luna Park from prevention notices issued under the POEO Act, provided it operates within the bounds of its approved development consents issued under the EP&A Act.³⁵ This provision provides certainty to the operators of Luna Park that compliance measures will not be issued in relation to the noise they produce, provided they operate within their DA conditions.

1.5.1 Action: *Advocate to the NSW Government for legislative reform to remove duplication and inconsistencies in the regulation of noise from live music and performance premises.*



1.6 Improving clarity and consistency when investigating amenity complaints

One of the City's most visible roles in regulating the live music sector is the employment of frontline compliance staff to enforce relevant legislation and assess potential infringements on environmental amenity, specifically 'offensive noise' as defined by the POEO Act. This provides an opportunity for the City to develop robust policies and processes to investigate and manage noise and amenity complaints related to live music and performance venues. During the seven-month period in which the Taskforce was active, a number of situations arose that showcased the complexities of noise and amenity regulation for the City's frontline compliance staff and Sydney's live music and performance venues. While they represent only a small number of the total compliance investigations undertaken each year, the issues that arose highlight new ways in which the City can support all its stakeholders by:

- 1 Ensuring that order of occupancy principles and the site's development consent conditions are considered in reviewing noise and amenity complaints
- 2 Improving processes for testing if the complaint meets the threshold for 'offensive noise'
- 3 Restricting compliance enforcement relating to offensive noise complaints to appropriately trained and skilled staff
- 4 Ensuring that venues are provided with transparent information about the process by which the City deals with noise and amenity complaints

- 5 Developing processes to ensure that the liaison role proposed through action 1.3.1 is updated for investigations relating to live music and performance activity to facilitate communication and swift resolution of issues.
- 6 Developing compliance guidelines relating to historic or out-dated development consent conditions for live music or performance (such as 'no live entertainment' or 'no rock bands').

The City of Sydney Council has previously committed to 'improve overall capacity to monitor and respond to noise complaints, with a staged approach to working with premises with noise problems'³⁶ as part of the *OPEN Sydney* strategy. This is listed as a long-term action; however, the City will treat it as an early priority by developing new compliance guidelines and procedures as detailed above, introducing a venue satisfaction survey (action 4.1.1), and ensuring that relevant staff are appropriately trained and informed of any relevant legal developments that affect the regulation of live music and performance through regular review of the compliance guidelines.

“During the seven-month period in which the Taskforce was active, a number of situations arose that showcased the complexities of noise and amenity regulation for the City’s frontline compliance staff and Sydney’s live music and performance venues... the issues that have arisen from these occasions highlight new ways in which the City can support all its stakeholders.”

1.6.1 Action: *Develop clearly defined and publicly available compliance guidelines for enacting compliance measures in response to amenity complaints against live music and performance venues, including consideration of the noise-related development consent conditions applied to the venue being investigated, consideration of order of occupancy, improved criteria for assessing ‘offensive noise’, processes for liaison staff to be informed of amenity disputes and processes to ensure that appropriate compliance decisions are made in relation to historic or out-dated consent conditions.*

1.6.2 Action: *Ensure that the authority to commence compliance actions against live music and performance venues involving assessments of ‘offensive noise’ are restricted to appropriate staff who are experienced and trained to assess and determine ‘offensive noise’, and that formal procedures reflect this.*

1.6.3 Action: *Regularly review compliance guidelines to ensure that all relevant staff are appropriately trained and informed of any relevant legal developments that impact the regulation of live music and performance.*

1.7 Ensuring cultural context and priorities are considered in enacting compliance

To ensure that the cultural priorities of the City are understood by the staff responsible for planning assessments and compliance procedures the City will establish a formal process to ensure that all Council officers in contact with live performance venues are trained in the City’s cultural policies and procedures relating to live music and performance. Similar efforts to educate staff about the City’s sustainability priorities have been made via the City’s ‘Green Champions’ program, which aimed to increase staff awareness of sustainability issues and provide tailored training to staff.

1.7.1 Action: *Implement an education and induction program about the City’s cultural priorities and support for live music for City of Sydney staff responsible for planning assessments, enforcement and compliance matters. This program will consist of training and annual refreshers about sector trends and issues affecting live music in Sydney, as well as the priorities outlined in Creative City, OPEN Sydney and Sustainable Sydney 2030 documents.*

“When managed effectively and involving parties acting in good faith, alternative dispute resolution is recognised as a cost-effective and efficient mechanism for resolving disputes and has the potential to reduce the financial burden of a dispute – for venues, residents and the City of Sydney itself.”

1.8 Establishing formal avenues for resolution of amenity issues relating to live music and performance

There are a number of alternative dispute resolution processes, such as conciliation and mediation, used by courts and organisations such as the Australian Human Rights Commission. These processes provide mechanisms for parties to a dispute to attempt to resolve matters in a less formal and less adversarial manner. When managed effectively and involving parties acting in good faith, alternative dispute resolution is recognised as a cost-effective and efficient mechanism for resolving disputes. It has the potential to reduce the financial burden of a dispute – for venues, residents and the City of Sydney itself. There is much information about resolving amenity disturbance concerns without involving government agencies and there are occasional examples of informal alternative dispute resolution practices being used to address disputes between venues and neighbours. There are also provisions for mediation within the Liquor Act that can be utilised by the Office of Liquor, Gaming and Racing in relation to licensed venues.

The City will formalise existing methods for delivering mediation services for a range of live music and performance activities and venue types by developing policies and protocols for this area, as part of a broader mediation project being developed to provide alternative dispute resolution for other types of development. For example, it could invite OLGR to work collaboratively to provide mediation for disputes relating to licensed venues, as well as provide the same service independently to unlicensed cultural venues programming live music and performance.

This will also allow the City to provide mediation for development assessment and planning matters that arise in relation to live music and performance venues or events, similar to mediation processes developed by Newcastle City Council³⁷ and Warringah Council.³⁸

Such formal processes will allow the City to work proactively with residents, event proponents and venue operators to develop a harmonious cultural life, and provide reassurance to these parties that the City intends to resolve amenity disputes among stakeholders as a first step. Participation in these processes will be voluntary but encouraged by the City where it considers that the process will help resolve the issues.

1.8.1 Action: *Provide options for alternate dispute resolution about live music and performance in the City of Sydney through the establishment of a formal mediation policy and pilot process that offers free, independent and confidential mediation services for resolving amenity complaints, in collaboration with NSW Police and the NSW Office of Liquor, Gaming and Racing as appropriate.*

02 Building Code of Australia

SUMMARY OF ISSUES

The cultural life of a city relies on access to buildings. Whether the buildings are used for rehearsal or performance, cultural production needs access to spaces where people can interact, experiment, develop skills, exhibit and perform.

The Building Code of Australia (BCA) sets the standard for all building regulation in Australia. It is produced and maintained by the Australian Building Codes Board (ABCB) on behalf of the Australian federal, state and territory governments. The goal of the BCA is to 'enable the achievement of nationally consistent, minimum necessary standards of relevant safety (including structural safety and safety from fire), health, amenity and sustainability objectives efficiently'.³⁹

Short-term activity in vacant or under-utilised space ('pop-up' activity, for example) is a global trend now making a significant contribution to the cultural life of cities. The temporary nature of the activity reflects the ever-changing nature of a thriving global city as events "appear unannounced, quickly drawing in crowds and then disappearing, leaving a flurry of tweets, articles and blogs across the online world. These events happen in parks, old warehouses, privately owned restaurants, city laneways and anywhere a little unusual and therefore shrouded in 'cool'. Attendees will usually learn of the event online which adds to its temporal nature, while its short lifespan creates guaranteed exclusivity, along with surprise and urgency for attendees to experience it".⁴⁰

Such events also provide a more accessible platform for delivering cultural activity at a grassroots level because of their lower overhead costs. The greatest challenge that this sort of activity faces is finding space to use and having that use approved by regulatory authorities, processes that often cost more money than the organisers have. More formal and ongoing cultural practices face similar hurdles but usually have more established systems and networks, and better access to government funding to offset these challenges. The Edinburgh Festival Fringe, for example, is recognised as the largest arts festival in the world and is a significant contributor to the cultural life of the city. Approximately 1,600 performances are held every day as part of the 25-day festival, which means it is reliant on accessing all of the city's conventional theatres and halls as well as a large number of 'non-traditional' performance spaces. A key achievement of the City of Edinburgh Council, which relies heavily on revenues from the visitor economy, has been ensuring that Fringe Festival artists can access these spaces and that they can be made into safe places for audiences.



For Australian venue owners or artists who are not trained or experienced with the BCA, building compliance can be a costly and confusing exercise. The BCA (which at the time of writing cost \$315 for individual purchase)⁴¹ is a dense, technical document and many commercial firms offer services to help clients navigate its terms. The BCA is generally considered to be both flexible and responsive to Australia's built environment and changing development needs. This is most evident to those who have specialist knowledge of its contents and are experienced in what is achievable within the bounds of the code. Unfortunately, many creative workers and small start-up organisations cannot meet the costs associated with seeking BCA advice. For example, musicians hoping to establish a temporary space to perform live music in an empty warehouse (or other unconventional space) are unlikely to purchase a copy of the BCA or understand its contents, nor would they have the funds to pay consultants to provide this advice.

Despite the perceived flexibility of the BCA, in order for access to space to become more equitable and democratic, fundamental changes are needed to ensure BCA information and advice is accessible for independent artists and the broader cultural sector.



Leah Flanagan / Image: Jared Leibowitz

ACTIONS

2.1 Setting up a venue: the role of the BCA

Cultural producers need ready access to information and spaces: appropriate information for planning venues and events, including their responsibilities for ensuring safety; and equitable access to spaces without costly delays or unnecessary compliance costs.

Notwithstanding the need to address fundamental discrepancies between the BCA and the needs of the live music and performance sector, the City of Sydney has an opportunity to provide guidance and support to current and prospective venues, in the same way that it has provided this service to small bars and 'finegrain' businesses through the establishment of the Business Advisor (Finegrain) role and the production of information resources. The City of Sydney will develop simple, easy-to-read information booklets, websites and guides that contain relevant information and contacts for establishing both temporary and permanent live music or live performance spaces and venues, including information about what can occur without permits and affordable methods for achieving compliance. Given the national relevance of these challenges in relation to the Building Code of Australia, consideration will be given to seeking project partners in these efforts, including the Australian Government and other capital city councils.

2.1.1 Action: *Develop information guides in multiple formats that provide specific information on the processes, requirements and resources available for setting up a temporary or permanent live music or performance venue in the City of Sydney.*

2.1.2 Action: *Investigate partnership opportunities for dissemination of nationally relevant information relating to the Building Code of Australia.*

2.2 Access to professional advice for temporary or non-traditional venues

As discussed previously, proponents for short-term use of spaces often do not have sufficient funds to undertake extensive works on buildings to achieve compliance under the Building Code of Australia, nor do they have resources to pay for advice on alternative solutions. This lack of knowledge or access to advice can deter proponents from moving forward with projects, as well as cause them to take out leases on properties that are unsuitable for the proposed use. Developing processes to advise and guide proponents from early in the project planning process will be a powerful way for the City to make access to temporary or non-traditional space easier for the creative community.

The Edinburgh Temporary Theatre Licence is an effective method for providing bespoke building advice because it utilises existing resources (the expertise of council staff and the council's existing administrative structure) to provide clear and consistent advice to applicants on a case-by-case basis. The development of a similar process at the City of Sydney would provide pathways for safely activating under-utilised and non-traditional space and increase the stock of potential venues available during Sydney's many festivals, as well as one-off events throughout the year.

CASE STUDY

“Temporary Theatre Licence”, City of Edinburgh

The Edinburgh Festival Fringe is the largest arts festival in the world which takes place every August for three weeks. Approximately 2,870 shows were performed in 2013. This represents many times more than the number of traditional performance venues within the city, and therefore a significant number of these performances take place in spaces not originally designed as performance venues. To ensure that proposed temporary venues meet the appropriate standards of building safety required for a theatre space, the City of Edinburgh developed a Temporary Theatre Licence process. This process is designed to deal with any application to perform theatre in public (under UK law, a Public Entertainment Licence and Theatre Licence is required to perform theatre in public), and also to regulate the safe and proper temporary use of non-traditional spaces for public performance.

As part of the formal application process, City of Edinburgh staff provide advice and assistance to the applicant to make sure the premises will be suitable for the proposed use. The Property Management team within the City Development Department offer advice to prospective applicants regarding seating layouts, exits, temporary structures and electrical installation. The council also provides online resources containing both general guidance information and specific directives on key issues for applicants to consider, including general structure, exits and electrical installation.

Applications are lodged and processed at least four weeks prior to the date of the performance. Applicants are able to request exemption from certain licence conditions in special circumstances. The cost of application depends on the venue size and the nature of the application, ranging from £112 (approximately A\$200) for charitable or non-profit organisations, to £2,702 (approximately A\$4,650) for commercial ventures with a capacity greater than 1,000 people. The application must include four copies of a plan, drawn to a suitable scale, showing full details of the premises and use, including exit routes, any scaffolding or stage construction, the seating layout with gangways and passage widths, exit positions and widths (including the direction of opening doors), and prop storage if likely to infringe upon exit routes. Chairs are required to be secured together in lengths of not less than four chairs.

Once a licence application is submitted to the city, council officers organise site visits if required and coordinate reports from a regulatory committee including the Chief Constable, the Chief Fire and Safety Officer, the Department of City Development's Property Management team, the Department of Environmental and Consumer Services and a Lighting/Electrical Engineer. The licence is granted if there are no objections within any of the reports, while applications that raise concerns involve meetings between applicants and the Regulatory Committee. The licence is conditional on final inspections by Property Management staff, the Lighting/Electrical Engineer and the Chief Fire and Safety Office. If the temporary premises are not approved at this site visit, or the applicant has not finalised the setup of the venue as approved, then the licence is voided. These inspections usually occur within 24 hours before the first performance. The licence and conditions must be prominently displayed at the premises at all times when members of the public are admitted.⁴²



The City of Sydney will develop a targeted ‘pre-lodgement’ or advice process for proposals to establish temporary or non-traditional live music and performance venues. This process will provide targeted advice from City of Sydney building approvals, planning, health and building, and cultural strategy staff to people proposing such venues. In addition to addressing any general planning concerns before an application is made, the principal aims of the process will be to provide advice on whether a development application is necessary for the proposed use, if a site could be made BCA-compliant for the proposed activity and, where appropriate, possible cost-effective ways to achieve that compliance. The City recognises that such a process may not always negate the requirement to engage external specialists. The presence of a content specialist (such as the person engaged in the proposed live music and performance liaison role detailed in action 1.3.1) at site visits and meetings will be a valuable part of the process.

2.2.1 Action: *Develop a pre-lodgement or advisory process (based on the Edinburgh Temporary Theatre Licence concept) involving City of Sydney building approvals, planning, health and building, and cultural strategy staff, to support the creation of non-traditional and temporary live music and performance venues.*

2.3 Amending the Building Code of Australia to support the live music and performance sector

The Victorian Live Music Roundtable is an initiative of the Victorian Government. It is a live music industry roundtable, bringing together 21 music industry representatives, licensees of live music venues, government and Victoria Police. Like the City of Sydney Live Music and Performance Taskforce, a key focus of the Victorian Roundtable is regulatory reform, including monitoring the impact of the BCA on cultural activity and recommending changes to the code. Two of the City’s Taskforce members were also members of the Victorian Roundtable, and these members have advised that beyond the Victorian Roundtable’s focus on state-specific issues, there are opportunities for both NSW and Victoria to work together to advocate nationally relevant reform, including the suitability of current BCA conditions and definitions for the increasingly multipurpose nature of creative spaces. This could include, for example, a rehearsal space which might also be used as a performance space, cinema, art gallery or retail space.

Research from the University of Melbourne is contributing to the Victorian Roundtable agenda, and a monitoring program of the BCA Premises Standards is also under way. For example, the BCA Premises Standards supporting disability access introduced into the BCA in 2011 have the potential to affect the operational viability of upstairs and basement arts and cultural spaces, including live music venues. This would be an unintended consequence of the BCA Premises Standards. The situation is being monitored over the next 12 months.



Sydney Symphony Vanguard performing at Alaska Projects / Image: Sebastian Goldspink

There is also broader concern about the language and inaccessibility of the BCA to anyone other than building consultants, who are sometimes perceived as limiting their advice to a narrow range of 'deemed to satisfy' provisions. Greater transparency about the BCA's intentions might allow a range of alternative solutions to be considered. This issue would also benefit from the creation of an open forum where challenges could be discussed by regulatory bodies and the cultural sector. Currently there are no opportunities for this to occur, and the City will play a vital role in providing a forum for this important policy discussion.

2.3.1 Action: *In conjunction with the Victorian Live Music Roundtable, prepare a joint state submission to the Australian Building Codes Board proposing the adjustment of BCA categories and definitions to recognise hybrid-use spaces for cultural activity.*

2.3.2 Action: *In conjunction with the Victorian Live Music Roundtable, monitor the impacts of compliance with premises standards on the live music and performance sector, with a view to preparing a joint submission to the 2015 Review of the Premises Standards of the Building Code of Australia.*

2.3.3 Action: *Co-host a public symposium in partnership with the Live Music Office in 2014 on the Building Code of Australia and the live music and performance sector. This forum will invite representatives from the Australian Building Codes Board, the City of Sydney, NSW Department of Planning and the creative sector to investigate compliance and affordability for live performance in small to medium-sized venues.*

2.4 Low-frequency noise

In addition to the action in section 1.1 that the City review its local planning instruments for new residential developments (in certain areas) to develop a higher level of acoustic performance standards, there is a further need to investigate the complexities of managing impacts from audible low-frequency noise.

Audible low-frequency noise is almost always the source of impacts arising from live music and nightclubs (e.g. repetitive bass sounds). This is because low-frequency noise has very long wavelengths that travel further distances than mid and high-frequency sounds. It can also pass through most solid structures, particularly windows and glass doors.

Australian Standard 2107 provides recommendations for internal noise levels for apartments, and many inner city residential buildings are built to this standard (for example, it recommends 30–35 dBA for a bedroom). However, this standard refers only to higher-frequency noise, making it inadequate as a standard when designing inner-city apartments where there may be a lot of low frequency noise from surrounding entertainment venues. There is currently no Australian Standard or guideline for designing buildings to deal with audible low frequency noise.

As part of the Fortitude Valley Music Harmony Plan, Brisbane City Council developed its own standard, which is similar to low-frequency criteria developed by the UK's Department of Environment, Food and Rural Affairs.

2.4.1 Action: *Undertake research into design and construction standards for attenuation of audible low-frequency noise, with a view to implementing new standards within planning controls or conditions of consent.*

2.4.2 Action: *Advocate to the Australian Building Codes Board for the introduction of an Australian Standard for audible low-frequency noise for residential buildings and work with them to produce guidelines for designing building interiors that address noise occurring below 100 hertz.*

03 Liquor Licensing

SUMMARY OF ISSUES

Since 2007, one of the three objectives of the Liquor Act 2007 (NSW) has been:

“To contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.”

It is unclear how the objectives relating to live music are being achieved. In the City of Sydney’s submission to the recent review of the Liquor Act, it called for the OLGR/ILGA to establish a report card system that demonstrates to the community how it is achieving the objectives of the Act.

Liquor licensing and live music and performance in Australia are closely linked. Historically, most dedicated live music and performance venues could not exist without revenue from the sale of alcohol as an income stream. This is because, in almost all cases, dedicated live music venues have existed outside the established systems by which government grant funding is made available to support other forms of cultural activity and infrastructure.

Venues that are largely dedicated to live music (e.g. Venue 505, The Basement, Oxford Art Factory, Metro, The Vanguard) rely heavily on alcohol sales as a primary source of income, as the net income from ticket sales will usually be significantly less than the income derived from the bar. Most other venues that host live music and performance events are multipurpose and rely on a number of income streams which together attract sufficient patrons to sustain the business.

Whatever the business mix, the sale of alcohol as part of a sustainable business model does not mean that live music and performance venues are actively contributing to the risky drinking culture that the City of Sydney has been working to address. Like small bars, which have been acknowledged as a key part of maintaining a diverse liquor licensing environment in the inner city, live music and performance venues have a special licensing context. Licensing regulation in NSW would benefit from a better understanding of the positive contribution that live music and performance makes to building social connections, minimising social isolation and aligning with the City’s efforts to promote responsible alcohol consumption.

Historically, the reputations of live music venues have also suffered from allegations that link live music and alcohol-related violence.⁴³ Although this perspective no longer dominates policy formulation in liquor licensing,⁴⁴ public anxiety that live music and entertainment may contribute to antisocial behaviour has not yet been fully eradicated.⁴⁵ The national advocate action group ‘Save Live Australia’s Music’ (SLAM) was formed in response to these issues, and it continues to work on debunking myths and promoting the economic and social benefits of live music.

“...92% of patrons surveyed believe that live music in venues improves quality of life, and 84% believe it provides a welcoming and safe environment ... a number of participants noted that live music often draws the focus of the crowd away from alcohol consumption and towards the music performance – the specific reason for attendance at the venue for 63% of patrons.”

ACTIONS

3.1 Researching the role of liquor licensing in live music

In 2011, Deloitte Access Economics completed a report for the Victorian Government, *The Economic, Social and Cultural Contribution of Venue-Based Live Music In Victoria*. It states:

“It was overwhelmingly indicated that live music can have positive impacts for the community – 92% of patrons surveyed believe that live music in venues improves quality of life, and 84% believe it provides a welcoming and safe environment.

These findings are supported by evidence obtained through consultations, where it was suggested that live music in venues can be a solution to many actual or potential social issues through the social connections it creates. A number of participants noted that live music often draws the focus of the crowd away from alcohol consumption and towards the music performance – the specific reason for attendance at the venue for 63% of patrons.”

These findings reflect an increasing awareness that live music and performance plays an important role in ameliorating the consumption of alcohol. In the same way that New Year’s Eve events and fireworks displays were formalised to provide a method for managing crowds (moving the focus and purpose of mass gathering to an entertainment spectacle rather than the consumption of alcohol), live entertainment is a similar, resource for addressing the growth of risky drinking practices and associated antisocial behaviour. It was consistently noted in industry feedback to the Taskforce that venues that program DJs who seamlessly mix tracks do more bar trade than those that host live music as there are no ‘set’ times or breaks.

Feedback suggested that live music audiences are more likely to focus on watching the performance and then buying drinks in the breaks, similar to theatre audiences. If consumption is reduced, risk is reduced. This could be better recognised when setting future liquor-licensing conditions.

Further locally relevant research is required to test and quantify these practices, to contribute to future policy reform around liquor licensing of live music and performance venues.

3.1.1 Action: *Work with the Live Music Office and APRA |AMCOS to gather data and undertake geographically specific research into alcohol consumption and behaviour patterns at live music and performance venues.*



The Preatures performing at Oxford Art Factory / Image: Heather Vousden

3.2 Developing the relationship between the City of Sydney, the Office of Liquor Gaming and Racing (OLGR) and the Independent Liquor and Gaming Authority (ILGA)

The City of Sydney, OLGR and ILGA all play a role in regulating licensed premises. OLGR develops liquor licensing policy and provides administrative support to ILGA, which makes determinations in response to liquor licence applications. In addition to being a consent authority for development applications which also require associated liquor licence approval from OLGR/ILGA, the City is often asked to provide advice on liquor licensing applications.

Given the City's interest in supporting live music and performance, its policy commitments in support of a viable night-time economy, and the objective of the Liquor Act to support the live music industry, it is logical that the three agencies collaborate to minimise the administrative burden and cost of securing a liquor license for a live music or performance venue. While OLGR does not have the authority to determine liquor licences, it is responsible for elements of the administration that guide an application through to a determination. As venues may also require development approval from the City of Sydney, there are opportunities for better alignment between planning and liquor licensing processes.

The City calls for greater clarity around the relationship between OLGR and ILGA and advocates improved transparency in the liquor licensing decision-making process. ILGA's decision-making process is currently closed, with little information provided to applicants about how decisions are reached. The City also requests that the NSW Government make meetings of ILGA open to the public or establish a new public City and

state government committee to exercise powers under both planning and licensing legislation relating to new licensed premises or significant amendments to existing licensed premises (such as extensions of trading hours or increases in patron capacity). A public state and City committee to coordinate assessment and decision making for licences, trading hours and requests for increased patron capacities, will allow the City and NSW Government to coordinate processes, reduce costs for applicants and ensure a transparent process.

In order to meet the objectives of the Liquor Act as they relate to the responsible development of live music, a system that provides clarity to venues and potential licensees about their liquor licensing conditions is required. Members of the industry have argued that 'responsible development of live music' is not augmented by a process in which a venue must pay \$2,000 to submit an application for extended trading hours without clarity about how the application will be determined, the specific criteria to be used in its assessment, or opportunities for applicants to respond to concerns.

In addition, the length of time that ILGA often takes to determine licence applications imposes significant costs on live music and performance venues and contributes to a culture of uncertainty amongst current and prospective venue operators.

3.2.1 Action: *Propose biannual meetings with the Office of Liquor Gaming and Racing and the Independent Liquor and Gaming Authority to discuss issues specifically related to the live music and performance sector.*

3.2.2 Action: *Invite the Office of Liquor Gaming and Racing and the Independent Liquor and Gaming Authority to explore ways to align processes, minimise costs and establish clear timeframes for the establishment of new live music and performance venues or for the variation of trading conditions for existing venues.*



Lucy Cliché performing at Goodgod Small Club / Image: Sam Macdonald

3.2.3 Action: Invite the Office of Liquor Gaming and Racing to develop complementary information resources for licensees that outline rights and responsibilities, pre-emptive and affordable noise attenuation techniques, and advice on developing and maintaining productive relationships with neighbours.

3.2.4 Action: Continue to advocate for greater transparency in the liquor licence decision-making process, including making meetings of the Independent Liquor and Gaming Authority open to the public or, preferably, the establishment of a joint City and state government committee to jointly exercise planning and licensing powers in relation to significant applications for licensed premises.

3.3 Developing liquor licence conditions for live music and live entertainment

The City of Sydney can play a significant role in providing more supportive development consent conditions for primary purpose live music and performance venues – venues that exist primarily to program and support live music and other forms of live entertainment, and for which income derived from the liquor licence is a means of paying for that programming. There is also scope for achieving this by working with OLGR and ILGA to provide licensing conditions that recognise and support these venues.

As discussed in the introduction to this section, these venues rely on licensing as part of their business model and should be issued with conditions appropriate to their level of risk. There is an opportunity for ILGA to support the live music sector through granting appropriate trading hours and security requirements to venues with live music and performance as a primary aspect of their business. Additional trading hours are important to such venues because they provide an environment where artists and patrons can socialise after the show without the venue closing immediately following performances.

Meanwhile, reduced security requirements and therefore lower security costs would support the financial viability of culturally focused venues.

While the City recognises the value of the Small Bar Licence and the positive impact it has had in diversifying Sydney's night-time economy, the capping of capacity at 60 people limits the value of this licence to the live music and performance sector. A venue with a spatial capacity of only 60 people is frequently unable to support the programming of live music or performance beyond a single unamplified performer. The expansion of the Small Bar Licence to include venue capacities up to 120 would improve the capability of venues in this licence category to provide live music and performance, while simultaneously helping deliver the objects of the Liquor Act in supporting live music. This has been achieved in Western Australia, where a Small Bar Licence for venues with capacity up to 120 was introduced in 2006. Since then, a number of small live music venues have begun operating under it, such as The Bird and The Ellington Jazz Club in Perth. In South Australia in 2013, a new category of Small Venues Licence with a capacity of 120 people was introduced after a strong community campaign.

3.3.1 Action: Work with the Independent Liquor and Gaming Authority to jointly provide appropriate trading conditions for primary purpose live music and performance venues, including suitable trading hours and proportional security requirements, where supported by the outcomes of the research undertaken as part of action 3.1.1.

3.3.2 Action: Continue to advocate for an increase in the allowable capacity for venues with small bar licenses from 60 to 120 people.

“While the City recognises the value of the Small Bar Licence and the positive impact it has had in diversifying Sydney’s night-time economy, the capping of allowable capacity for this licence at 60 people limits its value to the live music and performance sector. A venue with a spatial capacity of only 60 people is frequently unable to support the programming of live music or performance beyond a single unamplified performer.”

3.4 The Liquor Freeze and liquor licensing saturation management tools

In June 2009, a liquor licence freeze was introduced in the City of Sydney’s local government area in Kings Cross, Oxford St/Darlinghurst and CBD South.

On 30 January 2014, the NSW Government introduced a package of reforms to tackle alcohol-related violence. The reforms included legislation to establish the new Sydney CBD Entertainment Precinct which will be subject to a liquor freeze, 1.30am lockouts, 3am last drinks and other special licence conditions. The new lockout and last drinks measures came into effect on 24 February 2014. The measures are to be reviewed in February 2016. The freeze, while operating to deter problem drinking and associated antisocial behaviour, also means that that no new live music or performance venues can open in these locations. It does not account for industry feedback that live music venues mediate alcohol consumption, make a significant cultural contribution and diversify Sydney’s entertainment options. The impact of the liquor lockouts and 3am last drinks on live music and entertainment is yet to be understood and this warrants additional research.

At the time of writing there are approximately 93 venues operating with APRA |AMCOS live music licenses within or on the boundary of the Sydney CBD and Kings Cross precincts. This figure represents a range of business models including primary purpose live music venues and mixed-business venues that stage some live music events. The introduction of a lockout and 3am last drinks has generated significant concerns in the live music and hospitality sector about the financial viability of live music and performance venues. The City will monitor the effects of these measures on live music and performance activity and urge the NSW Government to introduce strategies to minimise negative impacts on live music and performance in the city.

The trialling of the Environment and Venue Assessment Tool (EVAT) applies to all new liquor licence applications in the City of Sydney outside the newly established CBD Entertainment Precinct. It takes into account the specific risk that each venue poses and a range of other ‘mitigating factors.’⁴⁶ It does not take the positive cultural contributions of live music and entertainment into account. While this tool was developed to address the cumulative impacts of licensed premises in NSW, it may have the unintended consequence of restricting the establishment of new, culturally focused venues in key locations in the City of Sydney.

In the same way that the Small Bar Licence category is exempt from these measures, any policies developed by the OLGR/ILGA to manage saturation should allow exemptions for venues regularly programming live music or performance, or include the provision of such programming as a ‘mitigating factor’ in the EVAT assessment process. The City will utilise its relationship with the OLGR/ILGA to advocate such exemptions. This advocacy will be informed by the outcomes of the research proposed in action 3.1.1, and may include a proposal that a new licence category be created, such as: ‘On-premises (Live Performance)’.

3.4.1 Action: *Advocate to the NSW Government to minimise the negative impacts of the Liquor Amendment Bill 2014 on live music and performance and consider exemptions for primary purpose live music and performance venues in relation to the liquor freeze and liquor licensing saturation management tools.*



3.5 Increasing access to temporary licences

Although the City of Sydney actively supports short-term cultural activity, there is an opportunity to further assist organisations to produce sustainable, temporary cultural events, including those with live entertainment. For example, many community markets or small outdoor multicultural events rely on the sale of alcohol as a key income stream, yet securing a license for small-scale events is a lengthy and burdensome process, requiring a disproportionate effort compared to the low scale, low intensity and low risk profile of this kind of activity.

Non-licensed organisations that want to program events that include alcohol sales are required to align with an established licensee to secure a temporary licence. Many grassroots community event organisers have difficulty securing relationships with local licensees due to the additional administration it imposes. In addition, the timeframes required for the application and processing of short-term licences are often longer than the time available to organise small scale, grassroots and community activities.

3.5.1 Action: *Advocate to OLGR for simplification of the process for securing temporary liquor licenses, to assist cultural organisations to access short-term licences more easily and efficiently.*

04 Audience and Sector Development

SUMMARY OF ISSUES

Beyond reviewing the City's own role in regulating live music and performance and undertaking advocacy for regulatory reform, there are opportunities for the City to broaden its commitment to live music and performance. These include forging closer links with the music community, developing responsive programs that promote live music and performance to audiences, providing targeted support to musicians and workers, and responding to venues' concerns about investing in the equipment required for live performance events.

ACTIONS

4.1 Monitoring the relationship between City of Sydney and live music and performance venues

As previously noted, most live music and performance venues exist outside government frameworks for providing funding and industry development support. In recent years the City of Sydney has made significant efforts to better engage with parts of the industry, mostly through the development of its *OPEN Sydney Strategy Future directions for Sydney at night*. While these efforts provided an important starting point, there is a need to further develop the relationship between the City and the live music and performance venues in its jurisdiction. In particular, there is an opportunity for the City of Sydney to develop better feedback methods to test its reputation among live music and performance venues, improve internal processes and communication tools, and examine trends over time.

An annual venue satisfaction survey will help the City analyse the quality of the relationship between the City of Sydney and live music venue operators, and demonstrate a commitment by the City to recognise and support their cultural and social value.

Further, this survey would be augmented by the creation of a formal network of venue operators and relevant City of Sydney officers, based on an inter-agency model, which would help clarify the City's role in the regulatory process; increase familiarity with City staff, policies and processes; build confidence between parties; and provide a formal outlet for discussing sector-specific issues. Beyond the planning and regulatory roles, this network also provides an opportunity for the City to develop its relationship with and awareness of the sector's contribution in a range of other areas of mutual interest such as youth engagement, access for people with disability, economic development, small business needs and more.



Nina Las Vegas at Erotic Fan Fiction / Image: Lisa Parakhina

In addition, to ensure that the cultural sector and broader community is kept aware of the City's work it will develop an annual reporting process that outlines its progress against the action plan.

4.1.1 Action: *Develop and implement an annual venue satisfaction survey to build a better understanding of the experiences of venue operators with City of Sydney staff and services, explore opportunities for improved service to this sector, and track trends over time.*

4.1.2 Action: *Establish a 'Live Music and Performance Network' to meet biannually and include live music and performance venue operators and City of Sydney officers responsible for planning, compliance and cultural policy.*

4.1.3 Action: *Create an annual reporting process to communicate with the cultural sector and general community about the progressive implementation of the Live Music and Performance Action Plan and its impacts.*

4.2 Research and data collection to support the growth of the industry

Although there have been recent efforts to research and assess the state of the live music sector in Australia (such as in APRA|AMCOS and Ernst & Young reports), there are currently no tools for the City of Sydney or other local government bodies to gather data on the health of the live music and performance sector, or its economic and cultural impact. Such data is vital for policy formulation and trend analysis.

Preliminary sector consultation undertaken by the Live Music Office indicated enthusiasm for comprehensive and continual data gathering. The office is developing a localised research framework that will produce nationally consistent data beneficial for local and state government use. The City will become a partner in this project in order to contribute to national work to support live music and performance, and to assess the effectiveness of its own work.

Similarly, in order to track the benefits to local employment being delivered by Sydney's festivals, those festivals and events funded by the City of Sydney will need to provide a range of demographic data through the grant acquittal process, including the number of local artists and creative workers employed.

4.2.1 Action: *Partner with the Live Music Office in the development of an ongoing localised research framework aimed at measuring the social and cultural role of live music and performance in the City of Sydney.*

4.2.2 Action: *Require festivals funded by the City of Sydney to submit local content and artist employment data as part of the grant acquittal process.*

“There are many existing venues including pubs, clubs and restaurants in the City of Sydney local government area that do not provide live entertainment, despite having the space to do so.”

4.3 Increasing live music and performance activity in Sydney venues

There are many venues including pubs, clubs and restaurants in the City of Sydney local government area that do not provide live entertainment, despite having the space to do so. The principal reasons given by venue operators for not doing this include:

- Difficulties imposed by the regulatory system in Australia
- A lack of awareness about the broad range of live entertainment options and how to book acts, and/or an inability to assess what music style or performance type will work for their venue and patrons
- Fear of the financial implications of programming live music, and/or an inability to meet the costs of fitting out or acoustic treatment of the venue
- Fear of noise disputes with neighbours.⁴⁷

To address the lack of awareness about how to make a venue suitable for programming and how to select and book acts, the City of Sydney will contribute funds for dedicated staff, based at an appropriate industry organisation, to provide information to venues in the City’s jurisdiction on how to establish financially sustainable live music and performance programming. The role will differ from the previously recommended liaison role, which will be a City employee (action 1.3.1). This role will provide expertise on the range of programming options (including consideration of audiences and musical styles) and help identify live music and performance programming opportunities for local festivals and events. This role, with some financial contribution from the City, will be trialled as a pilot program to develop a best-practice methodology that can be adopted by other local government areas or on a regional basis.

Research undertaken by Brisbane City Council for the Valley Music Harmony Plan and by the Western Australian Department of Culture and the Arts for their Sound Attenuation Support Program, added to these findings from Austin City Council’s Music Venue Support Program case study, suggest that exclusively funding architectural sound attenuation solutions in pre-existing buildings did not deliver good value on Council’s investment. The reasons for this included that venues were hesitant to contribute to architectural modifications of buildings they did not own; that any future refurbishments would be likely to void the original attenuation; and because the sound reduction achieved by the works was not significant enough to justify the cost. Underscoring the Australian experience, findings from Austin City Council’s survey suggest that its venues would welcome the opportunity to invest in the future of live music programming at their venue but that architectural solutions were their least preferred use of the loan.

CASE STUDY

Financial implications of programming live music

Music Venue Assistance Program – Austin, Texas

The City of Austin, Texas is internationally recognised as a centre for live music. More than 200 venues in the city contribute to maintaining live music as a defining characteristic of its cultural life. In 2012, music-related economic activity in Austin grossed \$USD1.66 billion and provided 18,148 jobs, with live music accounting for a significant proportion of this total. As in most large cities, in recent years Austin has experienced an influx of residential development in the inner city. Noise complaints have been an ongoing issue in Austin for well over a decade and continue to rise as residential development increases. Given Austin's marketing strategy focused on being the 'live music capital of the world', there was an urgent need to find ways for music venues and residential development to coexist.

In response to these issues, in 2012 the Council resolved to introduce a Music Venue Assistance Program. The aim of the program was to assist qualifying venues to implement sound-attenuation strategies that improve the acoustic environment inside and outside venues and reduce sound impacts upon nearby residents.

The first part of this program involved undertaking a sound mitigation case study overseen by a range of Austin City Council staff members from their cultural, architectural, planning, economic development, engineering and sustainability divisions.

The chosen venue for the case study was the Cedar Street Courtyard, which has been operating at the same location for over 16 years. In the first 14 years of its operation the venue received little or no noise-related complaints. However, in the two years following the construction of significant residential developments in the nearby area the City Council and police began receiving a high number of complaints.

The case study involved trialling a range of cost-effective methods for reducing noise impacts upon local residents, including the purchase of directional sound equipment, the introduction of noise-attenuating materials and architectural modifications. Once these modifications were made to the venue, there was an 88 per cent decrease in the number of noise complaints. An associated survey into the viability of the loan program for venues in Austin identified that it would be well received and utilised, with Austin City Council officers assessing that the use of the loans would be mostly directed to installing sound baffling materials and the purchase of directional speaker systems, and that a loan of \$10,000–20,000 would be an appropriate amount to meet these needs. The outcomes of this case study were submitted to the City of Austin Council along with recommendations that a loan program be implemented for venues, subject to the satisfaction of a range of criteria. The Council endorsed these recommendations on 22 August 2013 approving the implementation of a program that will loan up to \$35,000 to eligible venues.⁴⁸



Green Day performing at the Captain Cook Hotel / Image: James Patrick

In addition, APRA|AMCOS and Ernst and Young recently undertook a survey of venues that program live music and those that do not but would consider it.⁴⁹ In response to the question: 'What would encourage you to stage more live music performances at your venue?' around two thirds, (64.9 per cent) of respondents nominated 'a reduction in the overall cost to stage live music'. When asked what specific costs were the most prohibitive, 'cost of hiring and promoting live music' was identified by the majority of respondents, followed by 'cost of equipment: p.a., staging, lighting etc.' and then 'cost of noise amenity or renovations'. Taken holistically, this research suggests that any program focused on providing financial assistance to venues should not rely on architectural sound attenuation as a 'silver bullet', and that funding or loan programs aimed at making live music and performance a more attractive option for venues need to include support for a range of costs involved in setting up a venue or introducing live music programming, such as moveable equipment (p.a. systems, mixing desks) and/or reconfigurable fittings (staging, seating), and not just sound attenuation measures.

A venue-focused financial assistance program that provides assistance with the cost of developing live music or performance venues, or implementing live music or performance programming, is not dissimilar to the City's Finegrain Business Development Matching Grant Program. Although no longer active, this program was a successful and cost-effective method of increasing particular types of venues in the City of Sydney area, and sets a precedent for the funding of private businesses engaged in activities aligned with the City's strategic goals. Such a program will take into account the venue or operator's previously demonstrated commitment to live music and performance programming, or the percentage of floor space being allocated for live music and performance. Conversely, other local governments have developed loan programs to support particular strategic needs in their communities.⁵⁰

4.3.1 Action: *Contribute funding to an appropriate sector organisation for the establishment of a Music and Performance Program Coordinator role, subject to future Council resolution, to help venues in the City of Sydney local government area identify and implement live music and performance opportunities.*

4.3.2 Action: *Based on best practice models from other sectors, consider options to develop a financial assistance program that provides incentives to new and existing venues to invest in infrastructure and capital costs associated with live music and performance.*

“It has been recognised in cultural infrastructure studies by the NSW Government that Sydney has a lack of affordable and suitable rehearsal space for musicians and performing artists across all forms of creative practice.”

4.4 Encouraging opportunities for collaboration between the local scene and visiting artists

Any artist touring Australia must apply for a visa. The main type of visa offered by the Department of Immigration and Border Protection is the Temporary Work (Entertainment) (Subclass 420) visa. The conditions of this visa require an approved ‘entertainment sponsor’ (usually the promoter or presenting venue) to provide details of the visiting artist’s work while they are in Australia, including the locations the work will occur. It is possible for a sponsor to vary the nominated work events for a visiting artist; however, to do so requires forward notice and planning.

Exclusivity clauses in contracts with high-profile touring artists protect the promoter’s investment by preventing secondary gigs to occur in the period leading up to or immediately after the agreed performance dates. These exclusivity clauses also apply to touring band members (who are almost always less well known than the lead artist) and continue even after the primary concerts have sold out.

Despite these factors, it has become common practice for visiting artists to connect with local venues and musicians after their contracted performances to play ‘secret shows’ at smaller, more intimate venues – often at short notice and with local musicians. These shows make an important contribution to the cultural life of the city, build international relationships and networks, promote local talent and offer audiences an opportunity to see important musicians in a more intimate context. However, the need to keep these events ‘secret’ – to avoid contractual and visa breaches – limits the ability of smaller venues to capitalise on or plan for these special events.

Initial conversations with local promoters, festivals and venues indicated a willingness to revisit current practice. For example, it may be possible for promoters to confine exclusivity clauses to the lead artist, for the Department of Immigration and Border Protection to provide visa concessions for small gigs at small venues after the main event has sold out, or for the City to consider incentives for secondary performances or collaborations that will benefit the local community.

4.4.1 Action: *Work with the Australian Government Department of Immigration and Border Protection and Ministry for the Arts, as well as local promoters, major venues and festivals in the City of Sydney local government area to develop new models for supporting the contribution of international visiting artists to the local community.*



Rehearsal room at Redfern Community Centre

4.5 Rehearsal space

It has been recognised in cultural infrastructure studies by the NSW Government that Sydney has a lack of affordable and suitable rehearsal space for musicians and performing artists.⁵¹ As the City develops cultural infrastructure plans as part of its cultural policy, it is important that the needs of musicians for work space (centrally located, sound-proofed, affordable and with safe storage for large instruments) are given appropriate priority. There may also be opportunities to make vacant, sound-proofed spaces in hotels or other existing venues available for live music rehearsals.

Rehearsal space is an especially challenging issue for young people whose availability for practice is limited by their school or university schedule, who may be more reliant on public transport than older musicians and who may have limited funds to hire commercial spaces. While 16.8 per cent of City of Sydney residents are aged between 12 and 24⁵², the free domestic facilities that support youth musicianship in more suburban areas, such as garages or basements, do not exist in the city due to its predominately high-density housing stock.

4.5.1 Action: *Work with the Australian Hotels Association, Music NSW or other peak bodies to develop processes by which an increased number of appropriate spaces in hotels and other venues in the City of Sydney can be made available to musicians and other artists for rehearsals.*

4.5.2 Action: *Ensure the City of Sydney's current and future culture infrastructure plans (including its Integrated Community Facilities Strategy [draft]) acknowledge the importance of music rehearsal spaces and explore opportunities to build rehearsal space into new commercial developments in the City of Sydney.*

4.5.3 Action: *Conduct an audit of a number of City of Sydney community facilities and other properties to determine their suitability as rehearsal spaces, including their suitability for use by school-age musicians, and conduct a cost-benefit assessment of implementing higher-level acoustic standards into key facilities.*

4.6 Transport for audiences and performers

Audiences

During the formulation of its Creative City cultural policy, the City of Sydney's community and cultural sector consultation process highlighted limitations on public transport and parking near cultural facilities as a barrier to greater public participation in cultural events. While parking time limits near Sydney Theatre Company (Hickson Road, Walsh Bay) and Belvoir St Theatre (Belvoir Street, Surry Hills) reflect the cultural amenity of the area and the needs of audiences, such responsiveness is less evident in other parts of the city, particularly for small-scale music and performance venues.

Similarly, throughout development of *Sustainable Sydney 2030*, *OPEN Sydney*, *Creative City* and the *Live Music and Performance Action Plan* itself, the community repeatedly reinforced the need for improved transport options, particularly at night, which is reflected in the *OPEN Sydney* action 2.1.1 to increase public transport options at night. The introduction of light rail into Sydney will improve connectivity within the inner city, inner west and eastern suburbs, however the need to continue to encourage the NSW Government to improve late night transport to other areas of the Sydney region persists, especially in managing the impacts of the new Sydney CBD Entertainment Precinct.

CASE STUDY

Performers

Most live music and performance venues do not provide parking spaces for performers while they load their equipment in and out of the venue. According to the Road Rules 2008, parking in loading zones is limited to trucks, station wagons or 'vehicles that are principally designed and constructed for carrying goods'. Many performers and musicians do not drive cars that fit this criterion therefore are unable to use loading zones attached to venues for loading and unloading their equipment.

Other cities known for their live music scenes, such as Austin, Texas and Nashville, Tennessee, have developed Musician Loading Zone programs to support their local musicians and to make a public statement about the role that music and performance plays in the cultural life of the city.

4.6.1 Action: Amend section 3.3 of the City's draft Neighbourhood Parking Policy 'Community and Recreational Facilities' to 'Community, Cultural and Recreational Facilities' and ensure that parking controls adjacent to these facilities allow for turnover that balances the needs of all users.

4.6.2 Action: Based on the City of Yarra's Live Music Venue Parking Permit initiative, conduct a pilot program trialling the use of a permit system which allows musicians and other workers associated with live music and performance to access existing loading zones adjacent to music and performance venues in the LGA for fifteen minutes, for the purpose of unloading and loading instruments and equipment.

4.6.3 Action: Advocate to the NSW Government to amend loading zone regulations to provide musicians, performers and technical staff with access to loading zones, irrespective of the vehicle type used.

City of Yarra Live Music Venue Parking Permit

Following recommendations from the City of Yarra's Live Music Taskforce, the council introduced a Live Music Venue Parking Permit system as a simple and practical way to address musicians' needs to efficiently load their equipment in and out of venues.

A permit system was introduced for live music venues that had access to a designated loading zone. Once registered with Music Victoria, the venue can apply for up to two free and transferable permits. These permits are displayed by musicians or technical crew while they load equipment in and out of the venue, and allow them to use any vehicle to transport their equipment. The venue is responsible for managing use of the permits and vehicles must comply with the prescribed time restriction or park for no more than 30 minutes where no time restriction is prescribed.

The program was initiated as most of the venues in the Yarra area already had loading zones, and venues which did not have one were encouraged to apply. Feedback from City of Yarra staff indicates that the program has been highly successful, and administratively simple to run.



Darren Percival and Ensembleous Spontaneous Vocalous performing at City Recital Hall / Image: Jamie Williams

4.7 Building lifelong commitment to live music and performance

A key element to the development of a sustainable live music and performance sector in Sydney is ensuring there are opportunities for young people to experience live music as audiences, as well as rehearse and perform themselves. Deloitte Access Economics' research into the Victorian live-music sector found that 76 per cent of 18- to 19-year-olds surveyed as part of the research felt their friendship group had expanded through attending live music performance. The report noted more generally that having the chance to perform live in music venues was integral to incubating talent and developing the careers of young musicians. All the performers surveyed believed that live performance was a critical step in their professional development. Throughout the period in which the Taskforce was active, the importance of the all-ages scene was repeatedly mentioned by venue operators, promoters and peak organisations.

Organisations such as FBi Radio report that they receive regular feedback from musicians and promoters about the difficulties of finding suitable venues for all-ages live music events in Sydney. Few of the City of Sydney's community venues are suitable for live music performances, and shows appealing to all-age audiences are usually unattractive to licensed venues given the inability to generate bar profits. The City of Sydney's Youth Services team reports that the costs associated with hiring a live music venue are between \$1,500 and \$10,000, depending on its size and location. As the City is committed to reinvigorating and supporting a sustainable live music and performance scene, providing opportunities for young audiences and future professional musicians is a strategic imperative.

Despite the difficulties, there is a significant audience demand for all-ages shows. This demand will be addressed through a grant program available to local venues to support the costs of putting on live music, as well as by the City of Sydney's Youth Services unit undertaking a program of events throughout each year.

4.7.1 Action: *Expand the City of Sydney Youth Services's program of events to provide monthly all-ages live music events utilising established venues.*

4.7.2 Action: *Investigate the creation of a grant program with a total budget of up to \$25,000 to provide funding to venues in the City of Sydney local government area for the staging of all-ages live music and performance events.*



Comedian Matt Okine performing at The Comedy Store / Image: Doug Cosgrove

4.8 Access to non-curated, hireable venues

Productions created by independent producers and artist collectives are a key part of Sydney's cultural ecology. While established theatre companies are a crucial part of Sydney's mainstream cultural economy, small, independent collectives within Sydney's performance scene are motivated by the opportunity of creating new work on their own terms and often contest conventional approaches to theatre-making.

One of the challenges facing independent performing arts in Sydney is the lack of professional venues to hire for staging performances. Most small theatres in Sydney are 'curated', meaning that the venue's program consists of productions that are carefully chosen by a creative decision-maker to create a calendar of events at that venue. For productions that are not chosen for inclusion in a curated season, there are almost no theatres available for hire to self-present work. While the City makes its community venues available for cultural activity at affordable rates through casual hire, the City could better optimise key hireable inner-city community facilities for use as hireable performance spaces.

4.8.1 Action: Review opportunities to equip key City of Sydney hireable community venues with appropriate sound, lighting and seating infrastructure and any required approvals to enhance their capacity as performance venues.

4.8.2 Action: Review hiring policies, prices, facilities and liquor licensing options associated with venues owned by the City of Sydney so that they are optimised to support small-scale live music and performance in Sydney.

4.9 Developing Sydney's venue-based live music and performance culture

Although Sydney is known for the variety and popularity of its festivals and events, there is an opportunity to better promote Sydney's year-round offer of local live music and performance, and to develop the appetite for local live music. Importantly, there is an opportunity to educate both venues and audiences about the breadth of live music genres, formats and venues available in the city.

APRA|AMCOS is currently working with the Australian Hotels Association of NSW to create a brand for local live music. Using the title 'Live & Local', the proposal is to promote Sydney's local live music as ancillary cultural activity alongside other major festivals and events. The project was piloted in 2013 in association with ARIA Week. There is an opportunity for the City to support the further development of this initiative in 2014 to provide benefits to all live music stakeholders: venue operators will have an opportunity to showcase live music in their venues, audiences will be exposed to a greater array of live music, and musicians and artists will be able to forge closer ties with local venues.

The aim is to develop the Live & Local brand into a flexible model that can be used by councils across the country. It is based on a creative collaboration between councils, the hospitality sector, state-based music industry associations, and artists across a range of genres.

4.9.1 Action: Allocate \$20,000 matched funding to APRA|AMCOS to support a proposal to help promote live music and performance in Sydney, focused on local artists and local venues.

“Much of the vitality of Sydney’s cultural life is shaped by its climate and often spectacular natural setting. Focused on the Sydney Harbour Bridge, Sydney New Year’s Eve is the largest and most globally recognisable New Year celebration in the world, while many of Sydney’s most successful events, such as Sydney Festival, Tropfest, Sculpture by the Sea, Sydney Gay and Lesbian Mardi Gras and Biennale of Sydney are held wholly or partly outdoors, taking full advantage of these idyllic conditions.”⁵⁴

4.10 Increasing live music and performance in the public domain

Sydney is known for its outdoor culture. As part of its participation in the 2012 World Cities Cultural Audit, the city’s climate and love of outdoor events was described thus:

“Much of the vitality of Sydney’s cultural life is shaped by its climate and often- spectacular natural setting. Focused on the Sydney Harbour Bridge, Sydney New Year’s Eve is the largest and most globally recognisable New Year celebration in the world, while many of Sydney’s most successful events, such as Sydney Festival, Tropfest, Sculpture by the Sea, Sydney Gay and Lesbian Mardi Gras and Biennale of Sydney are held wholly or partly outdoors, taking full advantage of these idyllic conditions.”⁵³

Of the twelve cities involved in the study, Sydney has the highest number of festivals and events for its population base, and was also one of the cities with the greatest amount of green space. The live music and performance component of this outdoor culture exists in a range of forms, from small-scale community events and busking, to large events and festivals, both commercial and non-profit.

Recent government reports and sector consultations have reported a shortfall in large-scale outdoor venues to support large-scale outdoor live music and performance in inner Sydney.⁵⁴ There are also concerns from the sector that the current system used by NSW Police to determine user-pays policing levels for major events is unclear and inconsistent, does not accurately reflect the level of risk posed by many events, and does not account for the experience or compliance history of the event producer.⁵⁵ Given the cultural, social and economic benefits of these large-scale events, the City will undertake advocacy for reform of these areas.

Beyond these large events and festivals, Jon Rose, in his essay ‘The Music of Place: Reclaiming a Practice’, cites the challenges faced by those wanting to perform or program small-scale live music and performance outdoors:

“Since the turn of the century, public liability policy and health and safety laws have put a noose around the neck of anyone who tries to stage a public musical event outside the rigid confines of an officially controlled venue. In a place like Sydney, public performance has been legislated to the edge of non-existence...”⁵⁶

Busking in the City of Sydney, for example, can be a complex process. The City’s Busking Policy is a significant document and there a number of locations, such as Circular Quay and Darling Harbour, regulated by more than one government body, each with its own busking policies and approval systems. Simplifying the process for busking has benefits for both the general community and performers. Rose cites the case of legendary saxophonist Sonny Rollins, who reinvented his technique on the Williamsburg Bridge between 1959 and 1962, to demonstrate how buskers can enhance the public domain, not to mention the benefits that public performance provides to a musician.

The City issues over 1,500 busking permits each year. These buskers enhance the visibility of creative activity in the public domain. The City will contribute to an outdoor culture that supports artists and engages the general public by ensuring the spaces it manages are suitable for live music and performance, as well as by expediting opportunities for buskers to perform.



Little Bastard performing at Brighton Up Bar / Image: Heather Vousden

The City will provide support to buskers not only by identifying opportunities for reducing regulatory complexity, but by playing an active role in their promotion and helping them to connect with retailers and landowners through a central database, website or phone app. In New York, for example, a student project team designed the MUNY (Musicians Under New York) phone app to let New York subway travellers record buskers and tag their locations, see busker profiles, and identify where certain buskers will be playing at particular times. Such technologies not only provide important promotion to buskers, but also allow the general public to engage more actively with public performers and promote the value of busking to a city's cultural life.

4.10.1 Action: *Ensure that the hiring policies, prices, facilities and licensing options associated with City of Sydney managed outdoor spaces are optimised to support the provision of live music and performance, across small and large scales.*

4.10.2 Action: *Undertake a review of the City of Sydney Busking Policy to identify ways to simplify busking requirements. In addition the City will explore opportunities to support and promote buskers to the general public, retail operators, landowners and event producers.*

4.10.3 Action: *Work with neighbouring councils and the NSW Government to help establish a major new outdoor event space for the Sydney area.*

4.10.4 Action: *Advocate to the NSW Government for greater clarity and consistency in the user-pays policing process, including introducing provisions that take into account the operating history of event proponents.*

4.10.5 Action: *Investigate the feasibility of holding a program of regular and ongoing free lunchtime concerts in the Martin Place amphitheatre featuring emerging Sydney bands and musicians.*

4.11 Building audiences for the Sydney's independent performing arts community

The City of Sydney has a reputation for supporting Sydney's independent arts community through grants and by providing spaces for activities. Currently it provides performance spaces for organisations such as Darlinghurst Theatre at the Eternity Playhouse and Independent Musical Theatre at the Hayes Theatre, and rehearsal space for organisations such as Brand X. Beyond providing venues and rehearsal rooms, there are opportunities for the City to assist the sector to develop audiences.

The City has developed a range of marketing platforms to promote its own projects, and also possesses formidable networks within the media and the industry itself. These resources and networks will be used to benefit Sydney's independent live music and performance venues, organisations and promoters, who often do not possess the marketing resources required to undertake extensive audience development activities. The City of Sydney will help with a collaborative marketing strategy for the independent live music and performance sector that targets local residents as well as domestic and international tourists. This strategy will use the City's own platforms and networks, but will also include working with festivals and venues to increase opportunities for cross-promotion and audience development. Initial conversations with Sydney's major festivals indicate that this will be feasible.

4.11.1 Action: *Develop a collaborative marketing strategy with the live music and performance sector, utilising the City's own marketing platforms and leveraging its media relationships.*

“For example, the City will provide support to buskers not only by reducing regulatory complexity, but by playing an active role in their promotion as well as in helping them to connect with retailers and landowners through the creation of a central database...”

4.12 Broadening access to live music and performance experiences

The National Arts and Disability Strategy (NADS) acknowledges many barriers that inhibit some members of the community accessing cultural events in Sydney. These include physical access (e.g. parking, building location and design, and seating arrangements), lack of information in accessible formats, inaccessible booking and ticketing options, inadequate signage, barriers caused by lack of awareness, and financial barriers.

The Taskforce’s consultation with the arts and disability sector demonstrated there are many multiple-purpose permanent venues, including pubs and clubs, that already provide excellent physical access for people living with disability. However, challenges remain for audiences who cannot attend performances without a carer, and for smaller and temporary venues that operate with limited finances that do not allow remedial venue improvement. While there will be opportunities for provision of BCA advice for venues under the process outlined in action 2.2.1, there is also an opportunity for the City to work with organisations such as Accessible Arts to provide information and training to organisations and venues about improving access for everyone in our community.

Stay Up Late, a UK charity supporting the rights of people living with disability to make decisions about their social lives, developed a program called ‘Gig Buddies’, which pairs people with and without a learning disability to go to live music and performance events together. Previously, shift finishing times for support workers precluded people with disability attending performances at night. Feedback from the community during the public exhibition period suggests that such a program would be valuable in Sydney.

4.12.1 Action: *Work with Accessible Arts to gather data on current access standards in City of Sydney venues, and to develop resources and training focused on live music and performance, including advice on low-cost disability access solutions for temporary and non-traditional venues.*

4.12.2 Action: *Investigate options to support the Australian pilot of a ‘Gig Buddies’ program.*

“The City has recently finalised the process for management of six residential apartments on William Street, East Sydney as creative live/work space and part of its William Street Creative Hub project.”

4.13 Affordable housing for musicians and performers

The City has recently finalised the process for management of six residential apartments on William Street, East Sydney as creative live/work space and part of its William Street Creative Hub project. The City is investigating the viability of extending this project to include 14 City-owned self-contained apartments on Oxford Street, Darlinghurst. The provision of these spaces as affordable live/work space for artists recognises the financial difficulties that exist for most artists trying to live and work in Sydney.

The Taskforce supported the City's efforts to provide affordable live/work space for artists actively contributing to the cultural life of the city and encouraged special consideration of musicians and performers in this process. It also encouraged the City to advocate the inclusion of musicians and performers in affordable housing schemes in Sydney.

4.13.1 Action: *Ensure that criteria developed for allocation of City-owned live/work space encourages applications from musicians and performers, subject to the suitability of their practice to the space offered.*

4.13.2 Action: *Advocate to the NSW Government for the inclusion of musicians and performers in affordable housing programs run in the City of Sydney.*

4.14 Complementary small businesses for live music and performance

Although the action plan is focused on support for venues, promoters, musicians and performers, there are also opportunities to support the development of start-up, small-scale, creative manufacturing, services and retail businesses servicing the live music and performance industry. Such businesses could include instrument makers, repairers and retailers; costume designers; music schools; tutors and others. These ancillary businesses are subject to a range of challenges common to small business, such as space affordability and competition with online retailing, but are essential to a functioning live music and performance industry in Sydney.

Independent record stores also play a role in the functioning of local live music and performance through the marketing and promotional benefits they provide to local bands. Although there has been a shift in this area with much marketing and promotion now online through social media and direct sales websites such as bandcamp.com, the manufacture and sale of physical products such as vinyl records, CDs and band merchandise is still an important aspect of music culture. As well as providing an outlet for the sale of products, they also often act as central hubs, meeting places and performance spaces for musical communities. For example, beyond its role as a record store, the not-for-profit, volunteer run Black Wire Records in the Leichhardt local government area operates as an all-ages performance space, attracting attendees from all over Sydney. Similarly, the long-running Utopia Records in central Sydney regularly hosts artist signings where touring and local artists and their fans are able to interact.



The City seeks to support new and innovative businesses that sustain the live music sector. Beyond their contribution to the aims of the *Live Music and Performance Action Plan* specifically, all of these businesses contribute positively to the objectives of other City strategies, such as the City's *Retail Action Plan*, which identifies the need to create lively and active places, support and strengthen retail on main streets and in villages, and foster innovation in sustainable retail practices. The City's *Creative City* cultural policy also identifies the importance of fostering precinct distinctiveness.

The City currently provides space for creative activity through a number of mechanisms, such as the Short Term Creative Retail and Space Register. The City will, wherever suitable, accommodate businesses that support the live music and performance industry within its space-related programs, with a focus on innovative business models that provide essential services for the local live music and performance industry, or contribute to the City's strategic social and place-making objectives.

4.14.1 Action: *Encourage applications for accommodation in City-owned space from innovative small businesses providing complementary services to the live music and performance industry.*

4.15 Increasing funding for developing live music and performance in NSW

In 2003 the South Australian Government introduced provisions into the *Gaming Machines Act 1992* to ensure that a minimum of \$500,000 per year was allocated to live music initiatives in South Australia. This funding now contributes to the Arts SA's Contemporary Music Program which, in addition to supporting live music development, incorporates skills/artistic development, recording and marketing projects. In 2013 a legislative bill increased this dedicated funding pool to \$850,000 from 1 July 2014.

The fund has become an indispensable resource for live music and performance in South Australia. The introduction of a similar fund in NSW would provide additional resources to develop industry capacity, create opportunities for all-ages live music and performance activity, and develop internationally ready artists.

4.15.1 Action: *Advocate to the NSW Government to create a dedicated live music and performance community development fund from gaming revenue, separate to existing ClubGRANTS or Unclaimed Winnings funds, and including a minimum yearly contribution.*

05 Summary of Actions

Working Group 1 – Development Controls and Noise

Number	Action	Short Term	Medium Term	Long Term
1.1.1	Review the <i>Sydney Development Control Plan 2012</i> to optimise its support for live music and performance by identifying and protecting areas with strong traditions of live music and performance and by supporting areas where urban and cultural amenity can be improved by live music and performance activity.		✓	
1.2.1	Review City of Sydney planning controls to identify opportunities to streamline approval processes for small-scale and temporary live-music and performance activity, including development of definitions for small- to medium-scale live music and performance and consideration of expanded Exempt and Complying Development provisions in <i>Sydney Local Environmental Plan 2012</i> .		✓	
1.2.2	Advocate to the NSW Government to amend the SEPP Exempt and Complying Development Codes 2008 to include definitions and provisions for live music and performance.			✓
1.3.1	Establish a live music and performance liaison role that acts as first point of contact for regulatory enquiries and applications in relation to live music and performance.	✓		
1.3.2	Develop information guides in multiple formats that provide specific information on the planning requirements and resources available for setting up a temporary or permanent live music or performance venue in the City of Sydney.	✓		
1.4.1	Ensure that the review of Standard Conditions of Development Consent is informed by international best practice approaches in supporting local cultural activity and that any changes proposed to the City of Sydney Standard Conditions for Development Consent consider likely impacts on the live music and performance sector.	✓		

Working Group 1 – Development Controls & Noise (continued)

Number	Action	Short Term	Medium Term	Long Term
1.5.1	Advocate the NSW Government for legislative reform to remove duplication and inconsistencies in the regulation of noise from live music and performance premises.			✓
1.6.1	Develop clearly defined and publicly available compliance guidelines for enacting compliance measures in response to amenity complaints against live music and performance venues, including consideration of the noise-related development consent conditions applied to the venue being investigated, consideration of order of occupancy, improved criteria for assessing 'offensive noise', processes for liaison staff to be informed of amenity disputes and processes to ensure that appropriate compliance decisions are made in relation to historic or out-dated consent conditions.	✓		
1.6.2	Ensure that authority to commence compliance actions against live music and performance venues involving assessment of 'offensive noise' is restricted to appropriate staff who are experienced and trained to assess and determine 'offensive noise', and that formal procedures reflect this.	✓		
1.6.3	Develop a process to ensure that all relevant staff are appropriately trained and informed of legal developments in relation to live music and performance.	✓		
1.7.1	Implement an education and induction program about the City's cultural priorities and support for live music for City of Sydney staff responsible for planning assessments, enforcement and compliance matters. This program will consist of training and annual refreshers about sector trends and issues affecting live music in Sydney, as well as the priorities outlined in <i>Creative City</i> , <i>OPEN Sydney</i> and <i>Sustainable Sydney 2030</i> documents.	✓		
1.8.1	Provide options for alternate dispute resolution about live music and performance in the City of Sydney through the establishment of a formal mediation policy and pilot process that offers free, independent and confidential mediation services for resolving amenity complaints in collaboration with NSW Police and the NSW Office of Liquor, Gaming and Racing, as appropriate.		✓	

Working Group 2 – Building Code of Australia

Number	Action	Short Term	Medium Term	Long Term
2.1.1	Develop information guides in multiple formats that provide specific information on the process requirements and resources available for setting up a temporary or permanent live music or performance venue in the City of Sydney.	✓		
2.1.2	Investigate partnership opportunities for dissemination of nationally relevant information relating to the Building Code of Australia.	✓		
2.2.1	Develop a pre-lodgement or advisory process (based on the Edinburgh Temporary Theatre Licence concept) involving City of Sydney building approvals, planning, health and building, and cultural strategy staff to support the creation of non-traditional and temporary live music and performance venues.		✓	
2.3.1	In conjunction with the Victorian Live Music Roundtable, prepare a joint state submission to the Australian Building Codes Board proposing the adjustment of BCA categories and definitions to recognise hybrid-use spaces for cultural activity.		✓	
2.3.2	In conjunction with the Victorian Live Music Roundtable, monitor the impacts of compliance with premises standards on the live music and performance sector, with a view to preparing a joint submission to the 2015 Review of the Premises Standards of the Building Code of Australia.		✓	
2.3.3	Co-host a public symposium in partnership with the Live Music Office in 2014 on the Building Code of Australia and the live music and performance sector. This forum will invite representatives from the Australian Building Codes Board, the City of Sydney, NSW Department of Planning and the creative sector to investigate compliance and affordability for live performance in small- to medium-sized venues.	✓		
2.4.1	Undertake research into design and construction standards for attenuation of audible low-frequency noise, with the view to potentially implementing new standards within planning controls or conditions of consent.	✓		
2.4.2	Advocate the Australian Building Codes Board for the introduction of an Australian Standard for audible low-frequency noise for residential buildings and work with them to produce guidelines for designing building interiors that address noise occurring below 100 hertz.			✓

Working Group 3 – Liquor licensing

Number	Action	Short Term	Medium Term	Long Term
3.1.1	Work with the Live Music Office and APRA AMCOS to gather data and undertake geographically specific research into alcohol consumption and behaviour patterns at live music and performance venues.	✓		
3.2.1	Propose biannual meetings with the Office of Liquor Gaming and Racing and Independent Liquor and Gaming Authority to discuss issues specifically related to the live music and performance sector.	✓		
3.2.2	Invite the Office of Liquor Gaming and Racing and Independent Liquor and Gaming Authority to explore ways to align processes, minimise costs and establish clear timeframes for the establishment of new live music and performance venues or for the variation of trading conditions for existing venues.		✓	
3.2.3	Invite the Office of Liquor Gaming and Racing to develop complementary information resources for licensees that outline rights and responsibilities, pre-emptive and affordable noise-attenuation techniques and advice on developing and maintaining productive relationships with neighbours.		✓	
3.2.4	Continue to advocate for greater transparency in the liquor licence decision-making process, including making meetings of the Independent Liquor and Gaming Authority open to the public or, preferably, the establishment of a joint City and state government Committee to jointly exercise planning and licensing powers in relation to significant applications for licensed premises.			✓
3.3.1	Work with the Independent Liquor and Gaming Authority to jointly provide appropriate trading conditions for primary purpose live music and performance venues, including suitable trading hours and proportional security requirements, where supported by the outcomes of the research undertaken as part of action 3.1.1.		✓	
3.3.2	Continue to advocate for an increase in the allowable capacity for venues with small bar licenses from 60 to 120 people.			✓
3.4.1	Advocate to the NSW Government to minimise the negative impacts of the <i>Liquor Amendment Bill 2014</i> on live music and performance and consider exemptions for primary purpose live music and performance venues in relation to the liquor freeze and liquor licensing saturation management tools.			✓
3.5.1	Advocate to OLGR for simplification of the process for securing temporary liquor licenses, to assist cultural organisations to access short-term licences more easily and efficiently.		✓	

Working Group 4 – Audience and Sector Development

Number	Action	Short Term	Medium Term	Long Term
4.1.1	Develop and implement an annual venue satisfaction survey to build a better understanding of the experiences of venue operators with City of Sydney staff and services, explore opportunities for improved service to this sector and track trends over time.	✓		
4.1.2	Establish a Live Music and Performance Network to meet biannually and include live music and performance venue operators and City of Sydney officers responsible for regulation, compliance and cultural policy.	✓		
4.1.3	Create an annual reporting process to communicate with the cultural sector and general community about the progressive implementation of the <i>Live Music and Performance Action Plan</i> and its impacts.	✓		
4.2.1	Partner with the Live Music Office in the development of an ongoing localised research framework aimed at measuring the social and cultural role of live music and performance in the City of Sydney.			✓
4.2.2	Require festivals funded by the City of Sydney to submit local content and artist employment data as part of the grant acquittal process.	✓		
4.3.1	Contribute funding to an appropriate sector organisation for the establishment of a Music and Performance Program Coordinator role, subject to future Council resolution, to help venues in the City of Sydney local government area identify and implement live music and performance opportunities.	✓		
4.3.2	Based on best practice models from other sectors. Consider options to develop a financial assistance program that provides incentives to new and existing venues to invest in infrastructure and capital costs associated with live music and performance.		✓	

Working Group 4 – Audience and Sector Development (continued)

Number	Action	Short Term	Medium Term	Long Term
4.4.1	Work with the Australian Government Department of Immigration and Border Protection and Ministry for the Arts as well as local promoters, major venues and festivals in the City of Sydney local government area to develop new models for supporting the contribution of international visiting artists to the local community.		✓	
4.5.1	Work with the Australian Hotels Association, Music NSW or other peak bodies to develop processes by which an increased number of appropriate spaces in hotels and other venues in the City of Sydney can be made available to musicians and other artists for rehearsals.		✓	
4.5.2	Ensure the City of Sydney's current and future culture infrastructure plans (including its Integrated Community Facilities Strategy [draft]) acknowledge the importance of music rehearsal spaces and explore opportunities to build rehearsal space into new commercial developments in the City of Sydney.			✓
4.5.3	Conduct an audit of a number City of Sydney community facilities and other properties to determine their suitability as rehearsal spaces, including their suitability for use by school-age musicians and conduct a cost-benefit assessment of implementing higher-level acoustic standards into key facilities.		✓	
4.6.1	Amend section 3.3 of the City's draft Neighbourhood Parking Policy 'Community and Recreational Facilities' to 'Community, Cultural and Recreational Facilities' and ensure that parking controls adjacent to these facilities allow for turnover that balances the needs of all users.	✓		
4.6.2	Based on the City of Yarra's Live Music Venue Parking Permit initiative, conduct a pilot program trialling the use of a permit system which allows musicians and other workers associated with live music and performance to access existing loading zones adjacent to music and performance venues in the LGA for fifteen minutes for the purpose of unloading and loading instruments and equipment.	✓		
4.6.3	Advocate to the NSW Government to amend loading zone regulations to provide musicians, performers and technical staff with access to loading zones, irrespective of the vehicle type used.			✓

Working Group 4 – Audience and Sector Development (continued)

Number	Action	Short Term	Medium Term	Long Term
4.7.1	Expand the City of Sydney Youth Service program of events to provide monthly all-ages live music events utilising established venues.	✓		
4.7.2	Investigate the creation of a grant program with a total budget of up to \$25,000 to provide funding to venues in the City of Sydney local government area for the staging of all-ages live music and performance events.	✓		
4.8.1	Review opportunities to equip key City of Sydney hireable community venues with appropriate sound, lighting and seating infrastructure and any required approvals to enhance their capacity as performance venues.		✓	
4.8.2	Review hiring policies, prices, facilities and liquor licensing options associated with venues owned by the City of Sydney so that they are optimised to support small-scale live music and performance in Sydney.	✓		
4.9.1	Allocate \$20,000 matched funding to APRA AMCOS to support a proposal to help promote live music and performance in Sydney, focused on local artists and local venues.	✓		
4.10.1	Ensure that the hiring policies, prices, facilities and licensing options associated with City of Sydney managed outdoor spaces are optimised to support the provision of live music and performance, across small and large scales.	✓		
4.10.2	Undertake a review of the City of Sydney Busking Policy to identify ways to simplify busking requirements. In addition the City will explore opportunities to support and promote buskers to the general public, retail operators, landowners and event producers.	✓		
4.10.3	Work with neighbouring councils and the NSW Government to help establish a major new outdoor event space for the Sydney area.			✓
4.10.4	Advocate to the NSW Government for greater clarity and consistency in the user-pays policing process, including introducing provisions that take into account the operating history of event proponents.	✓		
4.10.5	Investigate the feasibility of holding a program of regular and ongoing free lunchtime concerts in the Martin Place amphitheatre featuring emerging Sydney bands and musicians.	✓		

Working Group 4 – Audience and Sector Development (continued)

Number	Action	Short Term	Medium Term	Long Term
4.11.1	Develop a collaborative marketing strategy with the live music and performance sector, utilising the City’s own marketing platforms and leveraging its media relationships.		✓	
4.12.1	Work with Accessible Arts to gather data on current access standards in City of Sydney venues, and to develop resources and training focused on live music and performance, including advice on low-cost disability access solutions for temporary and non-traditional venues.		✓	
4.12.2	Investigate options to support the Australian pilot of a ‘Gig Buddies’ program.	✓		
4.13.1	Ensure that criteria developed for allocation of City-owned live/work space encourages applications from musicians and performers, subject to the suitability of their practice to the space offered.	✓		
4.13.2	Advocate to the NSW Government for the inclusion of musicians and performers in affordable housing programs run in the City of Sydney.	✓		
4.14.1	Encourage applications for accommodation in City-owned space from innovative small businesses providing complementary services to the live music and performance industry.	✓		
4.15.1	Advocate to the NSW Government to create a dedicated live music and performance community development fund from gaming revenue, separate to existing ClubGRANTS or Unclaimed Winnings funds and including a minimum yearly contribution.	✓		

APPENDICES | 3





Sarah Blasko performing at St Stephens Uniting Church / Image: Johnny Au

Appendix A

Background to the Taskforce

At the City of Sydney Council meeting held 15 October 2012, the City of Sydney Council unanimously supported recommendations in support of the live music sector. At that meeting it was resolved that the Chief Executive Officer of the City of Sydney should:

- a. Establish a taskforce of experts on the issues facing live music and small- to medium-scale live performance in Sydney to inform the City of priority actions and best-practice models of support
- b. Develop a *Live Music and Performance Action Plan* including short-, medium- and long-term actions that address current barriers for live music and performance providers and propose programs and policies that support the sustainability and vibrancy of this sector
- c. Present the draft *Live Music and Performance Action Plan* to Council for its consideration.

MEMBERSHIP

In November 2012, the criteria for membership of the Taskforce was established as follows:

- a. Extensive experience with issues affecting live music and/or small-scale live performance, including a notable publishing record or relevant policy achievement
- b. Capacity to identify and influence other local or state government partners/stakeholders in related subject areas including liquor licensing and accords, the hotels sector, planning and compliance, and the arts sector
- c. Understanding of the legislative, regulatory or financial regime that affects the provision of live music and/or small-scale live performance
- d. Understanding of best-practice models and programs to support live music and/or small-scale live performance, particularly management of the potential conflict between noise transfer and residential amenity.

The membership of the Taskforce was finalised in January 2013 and comprised:

- **John Wardle (Chair):** Co-Director of the Live Music Office. A musician, teacher and entertainment policy activist who helped establish Sydney's small bar scene and end the NSW Government's Place of Public Entertainment (POPE) regulations
- **Kerri Glasscock:** Co-founder of the original underground music and performance space 505 in Surry Hills
- **Frank Henry:** A lead officer in the development of Brisbane City Council's Fortitude Valley Harmony Plan, now considered a landmark example of support for live music by a capital city government
- **Associate Professor Shane Homan:** Author, Monash University researcher and one of Australia's leading authorities on live music regulation
- **Alex Masso:** Manager of the Music Council of Australia's Music in Communities Network
- **Paul Nicolaou:** Chief Executive of the Australian Hotels Association (NSW)
- **Dean Ormston:** Head of Corporate Services for APRA|AMCOS and Deputy Chair of the Music Council of Australia
- **Dr Kate Shaw:** University of Melbourne academic and alternative cultures expert who helped lead the "Save the Espy" campaign to protect the Esplanade Hotel, one of Melbourne's most famous live music venues
- **Dr Ianto Ware:** Live Music Coordinator for Sounds Australia. Dr Ware was appointed in August 2013 as Co-Director of the Live Music Office

- **Dan Zilber:** General Manager of Music for FBi Radio 94.5. Dan has been working at the community station since its foundation in 2003 and is responsible for all music content across all its platforms including live music venue FBi Social

- **Jonathan Zwartz:** One of Australia's leading jazz musicians and organiser of the renowned Starfish Club. Jonathan has played with many major Australian and international artists.

In addition to the members of the Taskforce, the meetings held throughout the project included a range of City of Sydney staff and external observers:

- **Rachel Healy:** Executive Manager Culture, City of Sydney
- **Louise Kerr:** Executive Manager Development, City of Sydney
- **Suzie Matthews:** Manager City Business and Safety, City of Sydney
- **Hugh Nichols:** Cultural Projects Coordinator, City of Sydney
- **Peter Conroy:** Building Surveyor, City of Sydney
- **George Lim:** Licensed and Trial Specialist, City of Sydney
- **Jenna Bloom:** Youth Services Coordinator, City of Sydney
- **Costa Atzemis:** Community Events Coordinator, Leichhardt Municipal Council
- **Caroline McLeod:** Manager Culture and Recreation, Marrickville Council
- **James Lidis:** Principal, Design Collaborative.

METHODOLOGY

The Taskforce Terms of Reference (Appendix 1) required the Taskforce to identify the most pressing issues affecting the live music and performance sector in Sydney and to propose programs and policies to support its vibrancy and sustainability. This was achieved through a series of Taskforce meetings, analysis of current research, and targeted sector consultation.

At the second meeting of the Taskforce, it was decided to separate into four working groups in order to focus discussion around the four key policy areas that the group had identified as having the most significant impact on live music and performance in Sydney. This allowed each working group to take best advantage of the particular expertise of each Taskforce member with the invited participation of relevant City of Sydney staff and external experts where appropriate.

Working Group 1 – Development Controls and Noise

Attendees: Frank Henry, Kate Shaw, Ianto Ware, John Wardle, Louise Kerr, Rachel Healy, Hugh Nichols and James Lidis.

Working Group 2 – Building Code of Australia

Attendees: Ianto Ware, Kate Shaw, John Wardle, Rachel Healy, Peter Conroy, George Lim, Hugh Nichols, James Lidis and Caroline McLeod.

Working Group 3 – Liquor licensing

Attendees: Kerri Glasscock, Ianto Ware, John Wardle, Dan Zilber, Louise Kerr, Suzie Matthews, Rachel Healy, Hugh Nichols and James Lidis.

Working Group 4 – Audience and Sector Development

Attendees: David Cass (representing Paul Nicolaou), Kerri Glasscock, Alex Masso, Dean Ormston, John Wardle, Ianto Ware, Dan Zilber, Rachel Healy, Hugh Nichols, Jenna Bloom and Caroline McLeod.

The Taskforce recognised that there would be intersections and overlap between the four subject areas. The role of City staff and the Taskforce Chair was to identify common areas of concern, ensure that the scope of each group remained complementary, and avoid duplication in the recommendations.

Appendix B

Terms of Reference

1. PREAMBLE

Live music is a vital part of the cultural life of Sydney. Its influence is timeless and its importance to successive generations in Sydney is indisputable.

The economic and employment benefits of the live music scene are substantial – a 2011 APRA/Ernst & Young report estimated its contribution to the Australian economy at \$1.21 billion, with NSW as the largest contributor (32 per cent) and representing the highest level of industry employment.

It is also still our community's most popular live performance activity – boasting nearly 48 million attendances across the country in the 2009–10 financial year, four times more than the contribution of Australia's major performing arts companies and major arts festivals combined.

Despite its value, the venues that promote and support live music, and small- to medium-scale live performance, face challenges resulting from the combined impact of legislative and regulatory changes, including the introduction of poker machines and large sports screens into pubs in the early 1990s, increased costs, changing tastes, increased competition from other forms of entertainment and changed demographics.

Many of the challenges to developing, supporting and fostering the seedbeds of our live music culture are common to inner urban areas. The dramatic increase of residential living in many areas that have traditionally been home to live entertainment venues has also presented government with the challenge of balancing different interests. Meeting these challenges requires coordinated, inter-departmental action by a range of government portfolios at each level of government, and a commitment to learn from past actions and experiences of other government agencies around Australia in this area.

The City of Sydney has helped transform Sydney's cultural life in the last few years through support for the emergence of small bars. There is now an opportunity to provide the same level of focused energy and a committed partnership with our community's live music and live performance providers to help bolster live music and live performance in Sydney.

2. OBJECTIVE

The objective of the Live Music and Live Performance Taskforce is to propose programs and policies that support the vibrancy and sustainability of the live music and live performance sector.

The Live Music and Live Performance Taskforce is to consider current issues affecting the provision of live music and live performance in Sydney and then use these findings to inform the development of a Live Music and Live Performance Action Plan that identifies short-, medium- and long-term remedial actions the City of Sydney might take. The action plan and its recommendations will be considered by the City of Sydney for adoption and implementation.

It will do this by:

- a. Highlighting current policies or controls within the remit of the City of Sydney that, in its opinion, require review or amendment.
- b. Identifying legislative changes that could be explored with state government to support live music in Sydney and NSW.
- c. Advising the City on existing government programs and initiatives (both domestic and international) that have a measurable track record in successfully supporting live music and live performance.
- d. Suggesting cost-effective new projects that would positively impact the live music and live performance sector in Sydney.

3. LIMITATION OF AUTHORITY

The Taskforce is an advisory body to the City of Sydney local government authority. It is not an executive body. It does not have the authority to:

- a. Expend money on behalf of the City
- b. Commit the City to any arrangement
- c. Consider any matter outside its specific reference
- d. Direct City staff in the performance of their duties
- e. Represent the City in any communication with the public or media

4. TASKFORCE MEMBERSHIP

- 4.1 The Taskforce generally shall comprise:
 - a. City of Sydney Executive Manager Culture and other City officers as appropriate
 - b. A membership consisting of an approved list of external persons (approved by the City of Sydney's Chief Executive Officer)
- 4.2 The Lord Mayor and Chief Executive Officer are ex officio members of the Taskforce and may choose to join Taskforce meetings.
- 4.3 Relevant City of Sydney staff and representatives of other local government bodies may also be invited to attend meetings as observers or specialist advisors.

5. RECRUITMENT

Non-City of Sydney staff members of the Taskforce will be invited to join the Taskforce by the Executive Manager Culture following approval by the CEO. Following agreement to join the Taskforce, each appointment will be acknowledged by the Lord Mayor in writing.

6. SELECTION CRITERIA

Appointment to the Taskforce will be made with reference to one or more of the following criteria:

- a. Extensive experience with issues affecting live music and/or small-scale live performance including a notable publishing record or relevant policy achievement
- b. Capacity to identify and influence other local or state government partners/stakeholders in related subject areas including liquor licensing and accords, the hotels sector, planning and compliance, and the arts sector
- c. Understanding of the legislative, regulatory or financial regime that affect the provision of live music and/or small-scale live performance
- d. Understanding of best practice models and programs to support live music and/or small-scale live performance, particularly management of the potential conflict between noise transfer and residential amenity

7. CHAIR

The City will nominate and appoint a chairperson of the Taskforce.

8. TERM

- 8.1 The Taskforce shall be convened for the duration of four to five meetings to take place between January and July 2013.
- 8.2 A person ceases to be a Taskforce member if they
 - a. Resign
 - b. Fail to attend two consecutive meetings without notice
 - c. Fail to follow these Terms of Reference
- 8.3 Any member may resign by giving written notification to the City. The Chief Executive Officer may appoint new members without consulting the Taskforce.

9. FEES AND EXPENSES

- 9.1 Members whose participation in the Taskforce cannot be considered an extension of their paid employment or professional position will be paid \$200 per meeting attended.
- 9.2 Taskforce members based in Sydney will be reimbursed out-of-pocket expenses incurred by attending Taskforce meetings such as payment of transport expenses.
- 9.3 The City will arrange and pay for flights and one night's accommodation for Taskforce members travelling from interstate.

10. CONDUCT

Members must act lawfully, professionally, with honour and integrity. Information accessed, discussed, received or used in Taskforce meetings is confidential unless the Taskforce resolves otherwise. The City of Sydney, by approval of the CEO, may terminate a Taskforce member's term for breaching the confidentiality rules. In line with principles of good governance, the Taskforce will at all times strive to be participatory, consensus-oriented, respectful, accountable, responsive, effective and efficient.

11. MEETING ADMINISTRATION, ATTENDANCE AND PROTOCOL

- 11.1 The City will provide administrative support including:
 - a. Compiling and circulating agenda and relevant documents to all members
 - b. Taking and distributing minutes which include attendance, declaration of interest and meeting resolutions
 - c. Coordinating other meeting arrangements including accessibility of meeting procedure and materials
- 11.2 The Taskforce will meet four to five times during the term, on dates and at places to be confirmed at the first meeting.
- 11.3 If the Chairperson is not present within ten minutes after the time appointed for the meeting, the members may choose one of their numbers to be the chairperson for the purpose of the meeting.
- 11.4 Members and Chairperson can suggest additional agenda items provided that those items do not contravene with the objectives stated in these Terms of Reference and if time allows.

- 11.5 The quorum of a meeting of the Taskforce will be a simple majority. No business of the Taskforce will be considered unless a quorum is present. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting will be dissolved
- 11.6 The Taskforce has the capacity to establish time limited working parties to address specific issues and projects. The Taskforce may co-opt relevant City staff and community members to these working groups to provide additional expertise if where required.

12. CONFLICT OF INTEREST

A member who has a pecuniary interest in a matter being considered at a meeting must disclose the existence and nature of the interest. A member having disclosed a pecuniary interest must not be present when the matter is being considered, discussed or voted on.

13. REPORTING, MONITORING AND EVALUATION

- 13.1 The actions determined by the Taskforce will inform the development of a Live Music and Live Performance Action Plan
- 13.2 This action plan will be completed at the conclusion of the Taskforce official meeting schedule and be presented to Council for adoption and implementation
- 13.3 The activities of the Taskforce will be reported in the City of Sydney's Annual Report.

14. REVIEW

Recommendations for amendments to the Terms of Reference can be made at any time. However, amendments to the Terms of Reference must be approved by the Chief Executive Officer.

Appendix C

Minutes by the Lord Mayor

15 October 2012

To Council:

Live music is a vital part of the cultural life of Sydney. Its influence is timeless and its importance to successive generations in Sydney is indisputable. The economic and employment benefits of the live music scene are substantial – a 2011 Ernst & Young report estimated its contribution to the Australian economy at \$1.21 billion, with NSW as the largest contributor (32 per cent) and representing the highest level of industry employment.

The report also validates the importance of live music to our community; it is still our community's most popular live performance activity – boasting nearly 48 million attendances across the country in the 2009/10 financial year, four times more than the contribution of Australia's major performing arts companies and major arts festivals.

Addressing a 2010 Save Live Australian Music rally, Australian musician Paul Kelly spoke about the value to him of small venues, many of which have since closed: "You don't learn how to write a song in school. You can't do a TAFE course on how to play in front of an audience. These places were my universities... Some of these places are gone but their legacy lives on in the venues under threat today."

Despite its enduring value, the venues that promote and support live music and small to medium scale live performance face challenges resulting from the combined impact of legislative and regulatory changes, including the introduction of poker machines and large sports screens into pubs in the early 1990s, increased costs, changing tastes, increased competition from other forms of entertainment and changed demographics.

Pubs have converted performance spaces into gaming rooms or restaurants, while others committed to live music have been caught up in disputes often involving lengthy and expensive litigation. The cost of renovating venues so they can continue to provide live entertainment has also been prohibitive for some venues.

Many of Sydney's remaining live venues only operate intermittently. Increasingly, venues are being established in not-for profit venues, such as bowling clubs or in performer established initiatives such as 505 in Surry Hills or the Red Rattler in Marrickville. Not all are in the City of Sydney area.

The dramatic increase of residential living in many areas that have traditionally been home to live entertainment venues has presented governments at all levels with the challenge of balancing different interests. Community consultation for the City's late night economic strategy, along with early feedback on our first cultural policy, demonstrate that regulatory reform is sorely needed.

To encourage the growth of live music and performance in Sydney, I propose that the City bring together relevant experts in a Taskforce to advise Council on what action is needed to bolster Sydney's live music and live performance scene.

As part of its work, the Taskforce should consider initiatives that include helping venue operators negotiate the approvals process and manage impacts of noise on surrounding areas; reducing red tape to enable under-used and unconventional spaces to be used for live performance events and rehearsal spaces; and supporting entrepreneurs, performers, musicians and theatre groups with the logistics of staging live events.

The Taskforce should also examine actions taken elsewhere. Brisbane City Council has developed a range of protections for Fortitude Valley, an incubator of its live music scene as well as sophisticated web-based tools which allow visitors and prospective residents to better understand and experience the noise levels of various streets in the area before they commit to purchasing or renting.

In Western Australia, the Government has developed tools to help residents and venues manage disputes over noise. Its Sound Attenuation Support Program offers matching grants to assist live music venues improve sound management.

The Taskforce's recommendations will become the basis of a draft Live Music and Live Performance Action Plan that identifies short, medium and long-term actions for Council to consider.

Many of the challenges to developing, supporting, encouraging and maintaining our seedbeds of culture are common to inner urban areas and meeting several of these challenges requires action by the State or Federal Government. The Action Plan should look at opportunities for the City to coordinate and co-operate with other levels of government and advocate for reform at the national level through the Council of Capital Lord Mayors.

The City has helped transform Sydney's cultural life in the last few years with the emergence of small bars, many of which could be suitable venues not only for the whole gamut of live music, but cabaret, comedy, theatre, literary evenings and fiery debates. I am confident that with the same level of focused energy and a committed partnership with our community's live music and live performance providers that we can help bolster live music and live performance in Sydney.

RECOMMENDATION

It is resolved that Council request the Chief Executive Officer to:

- A. establish a Taskforce of experts on the issues facing live music and small to medium scale live performance in Sydney to inform the City of priority actions and best practice models of support
- B. develop a draft Live Music and Live Performance Action Plan, including short, medium and long-term actions that address current barriers for live music and live performance providers and propose programs and policies that support the sustainability and vibrancy of this sector
- C. present the draft Live Music and Live Performance Action Plan to Council for its consideration.

COUNCILLOR CLOVER MOORE

Lord Mayor

Appendix D

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