

**Submission  
No 283**

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

**Organisation:** Live Music Office

**Date received:** 28 February 2018

---



**Live Music Office Submission to:**

**Legislative Council Portfolio Committee No. 6 - Planning and Environment –**

**Inquiry into the Music and Arts Economy in New South Wales**

---

## Contents

Introduction .....	3
Actions for Consideration .....	5
Research 1: Economic Contribution of the Venue-Based Live Music Industry in Australia.....	9
Research 2: The Cultural and Economic Value of Live Music Making in Australia .....	10
Implementation Progress: NSW Night-Time Economy Roundtable Action Plan.....	14
Policies for a Diverse and Vibrant Music and Arts Culture across New South Wales.....	15
Delivery of a Strategic Plan for the Music Industry in NSW.....	15
Red Tape Reduction: Addressing Overlap in Regulatory Functions.....	15
Convening a Streamlining Live Music Regulation @90 Day Change Project across NSW Agencies.	16
Developing a Suite of Planning Approaches to Reduce Land Use Conflict Including Enabling Special Entertainment Precincts .....	17
Designating Responsibility for the Night Economy / Night Economy Commissioner.....	20
Music Development Office .....	20
Music Industry Hub.....	21
A NSW Arts Venue Variation to the National Construction Code (NCC) .....	21
Exempt and Complying Development for Low Impact Entertainment.....	25
Providing Clear Guidelines on Ancillary Entertainment Activity.....	25
Collaborative Marketing Initiatives to Promote Gigs and Events.....	26
Recognition of NSW Best Practice as Models for Wider State Application .....	26
Lockouts Exemptions for Newcastle Live Music Venues .....	30
Further Investment in the Live and Local Micro Festival Strategic Initiative.....	31
Balancing the Public Interest Test in Licensing Applications. ....	32
Supporting Regional Industry Development Programs .....	33
Support and Promotion of International Make Music Day across Greater NSW. ....	33
Music Industry Support for the Aboriginal Community in NSW .....	33
Recognition that Support for NSW Artists Shouldn't Cease at the State Borders.....	34

Community Radio.....	34
Independent Analysis of Licensing Submissions for New and Existing Live Music Venues .....	35
Establishing a Community Benefit Fund to Provide Financial Support to the Sector.....	36
Musicians Loading.....	37
Live Music Venue Liquor Licence 2am Standard Trading .....	37
National Table of Live Music Policy and Strategy – February 2018.....	38
Contemporary Music Strategic Plans across Australia .....	39
Contemporary Music Organisations .....	41
National Table of Local Government Live Music Strategies – February 2018.....	42
Case Studies – Reducing Land Use Conflict and Live Music Precincts .....	43
Urban Sounds Canberra.....	43
Sydenham Creative Hub – NSW .....	44
National Table of Live Music Regulation – February 2018 .....	46
Appendix 1 - About the Inquiry.....	47
Appendix 2 – Supplementary Files.....	47

28 February 2018

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

## Introduction

The Live Music Office welcomes the opportunity to make a submission to the Legislative Council Portfolio Committee No. 6 - Planning and Environment – Inquiry into the music and arts economy in New South Wales.

Established in July 2013, the Live Music Office works to increase opportunities in particular for venue based live music in Australia by identifying and advocating for better policy, regulation and strategy. Our advocacy encompasses regulation, research, audience development initiatives and support for music industry development. The Live Music Office was an initiative of its funding partners, The Australia Council for the Arts, the Ministry for the Arts and APRA AMCOS.

Live music scenes and cultural expression are in many ways directly indexed to the built environment:

- For venues, the lack of land use planning that sets the ground rules around supporting performance and licensed premises in mixed use precincts as well as poor alignment across the regulatory framework is a universal problem, as identified in industry research by 69% of venues as the biggest barrier to presenting live music ([Ernst and Young 2011](#));
- Artists need sustainable venues – free from interference, with regular performance opportunities, and access to rehearsal spaces and affordable housing;
- For audiences, sustainable and accessible venues, easy access to what's on guides and transport.

Whilst the focus and participation of the Safe and Vibrant Sydney Night-time Economy Roundtables has been restricted to the CBD, the question has subsequently remained unanswered as to any strategy for night economy improvement for the greater city/state and by association also further contribute to state policy development, so we welcome this Inquiry.

For the arts and cultural sector, the character of the CBD is entirely different to even the CBD fringes - then the suburbs, outer metro etc. let alone regional and remote NSW with regards to access to space, affordability, transport, capacity, priorities and resourcing. We are pleased to note in this context the specific reference to regional NSW in the Inquiry Terms of Reference.

The issues faced by the live music sector are also equally experienced by performance and cultural activity across the art-forms, including the dramatic arts, dancing, poetry and spoken word, electronic media, visual arts displays, and the wonderful things that happen when art-forms blend.

But there are also many musicians and artists for whom the existing policy framework, funding and support structures that are in place don't connect. The vast majority of practicing artists will never

perform in the Opera House or get high rotation on youth radio, and we should also look to the suburbs and the regions, as well as the inner city scenes to provide as much support as we can to our musicians and artists by delivering coordinated best practice policy.

Many of the recommendations in this submission are targeted at regulatory areas and providing constructive policies to deliver a better foundation to nurture the music industry, which is felt would deliver a better return on investment, rather than just petitioning for an increase in funding to the sector.

To provide a few points as background:

- 2011 research on the Economic Contribution of the Venue-Based Live Music Industry in Australia by Ernst & Young identified NSW as representing approx. 32.1% of the Australian venue-based live music industry (Qld – 23.6%, Vic – 22.0%);
- [2015 research conducted by the University of Tasmania](#) estimates NSW is the largest contributor to the Australian live music industry at \$3,623M and 23,207 jobs;
- A range of NSW government agencies have committed to supporting the industry, or have responsibility for regulating it across a series of functions (Create NSW – Create in NSW and NSW Creative Industries Action Plan; OLGR, ILGA & NSW Police – Liquor Act 2007; Department of Planning and Environment – EP&A Act 1979; EPA – POEO Act 1994; Office of Industrial Relations – Entertainment Industry Act 2013);
- Local government has operational carriage of the regulatory framework, with some also creating local strategies to support the sector - City of Sydney, Inner West Council (Leichhardt, Marrickville), Wollongong;
- Whilst there has been much better dialogue in the last couple of years, there has been a practice of little communication or collaboration between NSW agencies, between levels of government, or between government and industry;
- This complex policy environment and lack of communication has resulted in misaligned policy and regulation overlap that increases red tape for industry, erodes business confidence and challenges NSW's contribution to the wider music industry and community.

This submission provides references to recent industry research, to best practice and industry development work happening around the country as well as across NSW, and identifies a range of measures that in our view would greatly assist in building a better future for the music sector and the arts and cultural development of NSW.

Many thanks,

John Wardle  
Director  
Live Music Office  
16 Mountain St, Ultimo NSW 2007, Australia  
Locked Bag 5000, Strawberry Hills NSW 2012  
P +61 2 9935 7875 F +61 2 9935 7970  
E [john@livemusicoffice.com.au](mailto:john@livemusicoffice.com.au)  
W <http://livemusicoffice.com.au/>

## Actions for Consideration

The following list identifies short/medium/long term actions that are investigated by this submission that we believe would achieve the objectives and aspirations of the inquiry - Policies and legislation to support a diverse and vibrant music and arts culture across New South Wales as well as support the establishment and sustainability of permanent and temporary venue spaces for music and for the arts.

### 1. Delivery of a Strategic Plan for the Music Industry in NSW

Delivering a strategic plan for the music industry in NSW will ensure government investment and better regulation/red tape reduction are aligned to the identified issues and needs of the sector.

Overarching music industry strategies and associated funding commitments are in place in [South Australia](#), [Victoria](#) and [Western Australia](#).

### 2. Red Tape Reduction: Addressing Overlap in Regulatory Functions

Significant overlap in regulatory process are in place in NSW not only in the non-aligned liquor licensing and planning approvals application, variation and community consultation structure but further in addressing amenity issues where venues can be subject to complaints across any one or all of the 1) liquor licensing, 2) planning and 3) environmental protection avenues available.

These create inconsistencies and uncertainty, eroding confidence and discouraging investment.

### 3. Convening a Streamlining Live Music Regulation @90 Day Change Project across NSW Agencies

Looking to the [2016 South Australian process](#), this initiative proved a precise and efficient model to bring the music sector, state and local government agencies together to examine the regulatory barriers facing bricks and mortar live music venues and to recommend reforms to reduce the regulatory burden for live music venues.

### 4. Developing a Suite of Planning Approaches to Reduce Land Use Conflict Including Enabling Special Entertainment Precincts

Land use conflict is a significant challenge for sustainable venues in mixed use and urban areas. Developing a suite of planning approaches to reduce land use conflict including a provision in the Local Government Act or associated planning instruments to assist local councils in establishing special entertainment precincts would identify the land use, set the ground rules and spell out regulatory responsibilities. [These arrangements are in place in Queensland](#).

### 5. Designating Responsibility for the Night Economy / Night Economy Commissioner

This role would have operational carriage of the broad responsibility to deliver change across agencies, and could take the form of a Minister for the Night Economy, or a dedicated area in the Department of Premier and Cabinet. There is also an argument for a commissioner style role for the Night-Time economy, a similar position to the Small Business Commissioner.

### 6. Creating a Music Development Office

A Music Development Office or equivalent would provide for dedicated roles in government agencies to the music sector. This is in place in [South Australia](#), as well as [Victoria](#).

The Live Music Office has extensive experience working with the Music Development Office in South Australia as well as Creative Victoria and would endorse these models as successful initiatives that would underpin interaction between industry and government in NSW.

## **7. Establishing a Music Industry Hub**

Providing the music sector with a building where peak bodies and private sector initiatives can be situated has proved to be invaluable in South Australia with the St Pauls Creative Centre also providing a venue for state regulation roundtables and the Music Industry Council. A similar approach for NSW would deliver greater capacity to support sector development.

## **8. A NSW Arts Venue variation to the National Construction Code (NCC)**

In 2016 the South Australian Government introduced a small arts venue state variation to the National Construction Code – This red tape reduction measure supports the establishment of smaller dedicated performance spaces by assessing buildings to retail rather than theatre specifications for the purposes of building compliance.

## **9. Exempt and Complying Development for low impact entertainment**

Introduced in South Australia in 2017 and Victoria in 2018 for galleries and museums, designating low impact entertainment as exempt development would provide a level playing field for creative practice, ensuring that risks and impacts are the primary objectives of regulation – why is it that when we put a large screen TV in a retail premises there's no DA approval even considered but put in a piano and it's a change of use?

## **10. Providing Clear Guidelines on Ancillary Entertainment Activity**

In the absence of an associated Exempt Development definition under the planning scheme for low impact entertainment, providing clarity for the music and creative sector on what types of arts and cultural land use are [characterised as ancillary use](#) would be an important step to ensure effective operation of existing processes and will see results in building grass roots activity.

## **11. Collaborative marketing initiatives to promote gigs and events**

Supporting collaborative marketing programs between local government and industry for greater Sydney and regional centres would be of great assistance not only to our industry venues and artists, but also to build audiences, and change the wider narrative and perception around evening economies; that we have great venue based live music going on, and it's recognised, celebrated, and communicated by state and local government. See [Melbourne Music Safari](#), [City Sounds Brisbane](#), [Umbrella Adelaide](#).

## **12. Recognition of NSW Best Practice as Models for Wider State Application**

There have been a series of responses to identified industry issues from local government in NSW including a coordinated suite of responses from [Wollongong City Council](#), [the City of Sydney](#) and Inner West Council with their [Sydenham Creative Hub](#) live music precinct. Communicating this work broadly as examples for wider application would expedite cultural and land use planning outcomes for the sector across greater NSW.

## **13. Lockouts Exemptions for Newcastle Live Music Venues**

[Currently undergoing a review](#) by the NSW Government, the live music sector is seeking parity with Sydney conditions by removing some restrictions on trading as well as exemptions for live music venues in Newcastle, recognising that these have been effective in the Sydney CBD.

## **14. Further investment in the Live and Local Micro Festival Strategic Initiative**

[This exciting initiative supported by Create NSW](#) and delivered by the Live Music Office is proving to be a fantastic vehicle for connecting musicians, venues and local government in Western Sydney and regional NSW. With only 8 councils in regional NSW able to be funded in the current round, there's great potential for wider accessibility for regional and remote NSW with further support from the NSW Government.

#### **15. Balancing the Public Interest test in Licensing Applications**

We seek for the public interest test in liquor licensing and planning processes be rebalanced to also provide an equal opportunity for the positive contributions that licensed premises – particularly for our industry, those employing performers – make to our community, our identity, and our economy.

This would give effect to the associated provisions in the objectives of the Liquor Act 2007 identifying the live music industry, evidence of which can be hard to find referenced in licensing submissions and decisions.

#### **16. Supporting Regional Industry Development Programs Including a Live Music Crawl**

Looking to industry development strategies that may be models for NSW to consider, one example has been delivered in partnership by Music Victoria with local government in regional Victoria, the [Victorian Music Crawl](#) aims to build connections between City-based music industry figures and bands, venues, agents, events, promoters, media and more based in regional Victoria.

#### **17. Promotion of International Make Music Day across Greater NSW**

We believe [Make Music Day](#) has immense potential to draw out people who make music who would never connect with existing programs. *Completely different from a typical music festival, Make Music is open to anyone who wants to take part. Every kind of musician — young and old, amateur and professional, of every musical persuasion — pours onto streets, parks, plazas, and porches to share their music with friends, neighbours, and strangers. All of it is free and open to the public.*

#### **18. Music Industry Support for the Aboriginal community in NSW**

In the context of this Inquiry we recognise the support the state government provides for music industry development to the Aboriginal community in NSW through the [Starting Ground Project](#) and the [Live and Local Microfestival Strategic Initiative](#) for regional NSW and Western Sydney.

#### **19. Support for NSW Artists to Access International Markets**

The Live Music Office would like to also reference the importance of supporting NSW industry development through ensuring that domestic and export initiatives are factored into priorities and funding. In this context we refer to the submission by [SOUNDS AUSTRALIA](#) to this Inquiry, and recognise the service they provide as a crucial component for promoting NSW artists in what must be recognised as a global market.

#### **20. Community Radio**

Recognise the role that community radio plays in supporting local music communities in the city and regions, including 1) supporting local artists and night-time economy as a safe and diverse place to visit for residents and visitors through inner city and regional community radio stations and 2) advocating to federal agencies to ensure NSW residents are provided access to primary radio service in digital form on a free-to-receive basis.

#### **21. Independent Analysis of Submissions to Licensing Applications**

The anecdotal evidence from industry and local government is that as applications have been lodged that they have been consistently opposed by police regardless of the individual components or

potential for jobs and cultural diversity, as well as a practice of applying widespread no live entertainment conditions on new licenses. An independent analysis of policing approaches to licensing for live music venues and events would clarify this.

## **22. Establishing a Community Benefit Fund to Provide Financial Support to the Sector**

The Live Music Office advocates for the establishment of a live music community benefit fund along the lines of the [South Australian model](#). This is also an endorsed action from the City of Sydney Live Music and Performance Action Plan, and has in principle support from the NSW AHA.

## **23. Amending the Road Rules to Enable Musicians to Access Identified Loading Zones**

Many musicians, particularly in city and town centres, are unable to access loading zones or at risk of being fined when loading heavy equipment in and out of venues unless they park significant distances away or have a specifically approved vehicle. For this to be permitted in NSW would require a change to the regulations.

Musicians loading access is available in the City of Adelaide and the City of Yarra in Australia, and in Austin TX, Seattle WA, and Nashville TN in North America.

## **24. Live Music Venue Liquor Licence Standard Trading**

Providing standard trading hours for live venues similar to those for the small bar category could be a matter for consideration to assist in establishing new small to medium size venues within mixed use urban centres. This would also have a 2 am standard operational baseline hours to respond to industry programming and consumer demand and align with the small bar standard conditions.

## Research 1: Economic Contribution of the Venue-Based Live Music Industry in Australia

In 2011 Ernst & Young was engaged by Australasian Performing Right Association (APRA), in conjunction with The Australia Council, Arts Victoria, Arts NSW and Live Performance Australia, to measure the contribution of the venue-based live music industry nationally from a venue owner and managers' perspective. The study provides an estimate of the venue-based live music industry's economic contribution in terms of gross output, value add and employment for the 2009/10 financial year. [See report link.](#)

In terms of its economic importance, the venue-based live music industry<sup>1</sup> in Australia generated revenues of \$1.21 billion during 2009/10 financial year (i.e. "industry output"). The revenue of the venue-based live music industry is driven by patron spend at live music performances, of which 16.7% was generated from ticket sales to live music performances, with the remaining 83.3% from patron spend on food and beverage. These revenues were generated from an estimated 41.97 million patrons attending a total of approximately 328,000 venue-based live music performances at 3,904 live music venues across Australia.

- On a State by State basis, New South Wales (32% of industry output) is the largest contributor to the venue-based live music industry, followed by Queensland (24%) and Victoria (22%).
- Venues surveyed have on average been staging live music performances for approximately 13 years, with the main reason for staging live music being to generate patronage (65.8%) and to invigorate other parts of the venue's business (50.8%).
- The most popular genre of live music staged at the venues surveyed was rock/pop, accounting for 38.5% of respondents, followed by "all styles" with 31.4% and blues/roots/country with 13.9%.
- It is estimated that 3,904 live music venues in Australia staged approximately 328,000 live performances in the 2009/10 financial year, equating to approximately 6,300 performances per week. This equates to 84 performances per live music venue per year (or 1.6 per week), of which 14 were ticketed performances and 70 were nonticketed.
- With regard to the nights of the week that live music is staged, the most popular nights are Friday (77.3%) and Saturday (75.1%) nights.
- 36.6% of venues book the services of artists/musicians directly (i.e. in-house) compared to using the services of an agent (22.4%), while 38.5% of venues use a combination of both.
- The venues surveyed were also asked what they saw was 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%) are clearly the biggest issues facing the industry. Of the 12.8% of respondents that selected "other", the most common reasons given were music licence fees and the cost of security.
- Venue-based live music acts as an incubator for emerging artists/performers. The ability to perform and trial new material with smaller audiences assists artists' with their development. While new technologies are providing different ways for artists' to reach audiences, live performance is critical for artists' technical and creative development, income generation and networking with fans and industry. Venue-based live performance is often the first step in furthering an artist's international career.

## Research 2: The Cultural and Economic Value of Live Music Making in Australia

National research conducted by the University of Tasmania and released in August, 2015 by the Live Music Office shows the live music spending delivers at least 3:1 benefit to cost ratio, providing vital commercial, individual and civic benefits.

The report, *[The Economic and Cultural Value of Live Music in Australia 2014](#)*, set out to value the economic, social and cultural contribution of the Australian live music industry with both a national consumer survey undertaken alongside a survey of venues in Hobart, Melbourne, Adelaide and Sydney. This is the first research of this scale completed since 2011.

This research was undertaken in partnership with the University of Tasmania, City of Sydney Council, City of Melbourne, The Government of South Australia, and The Live Music Office as an initiative of the City of Sydney Live Music and Performance Taskforce.

Other key findings from the research include:

- [Live music spending in Australia delivers at least 3:1 benefit-to-cost ratio;](#)
- [Nationally, an estimated 65,000 full and part-time jobs are created by monies spent on live music \(page 39\), with taxation revenue generated for all tiers of government;](#)
- [Food and drink is the number one expense for those attending a live music performance equating to 29.3 % of the total spend;](#)
- [Expenditure on tickets comes in second at 19.2 % of spend, followed by travel at 17.6 % and accommodation at 12.4 %;](#)
- [Audiences are prepared to travel significant distances to attend live music, and this demonstrates live music is a source of regional competitive advantage;](#)
- [Live Music attendance was identified by punters and venues as contributing to improved health and wellbeing.](#)

The research also investigated many long-standing industry perceptions.

- In Sydney for example, barriers to live music sustainability included licensing conditions, sound abatement and direct and indirect costs, particularly rent.
- Venues in Melbourne scored competition, market saturation, location and gentrification as barriers.
- Venues in Adelaide scored gentrification as the biggest barrier, while in Hobart, relative isolation was the main barrier to commercial success

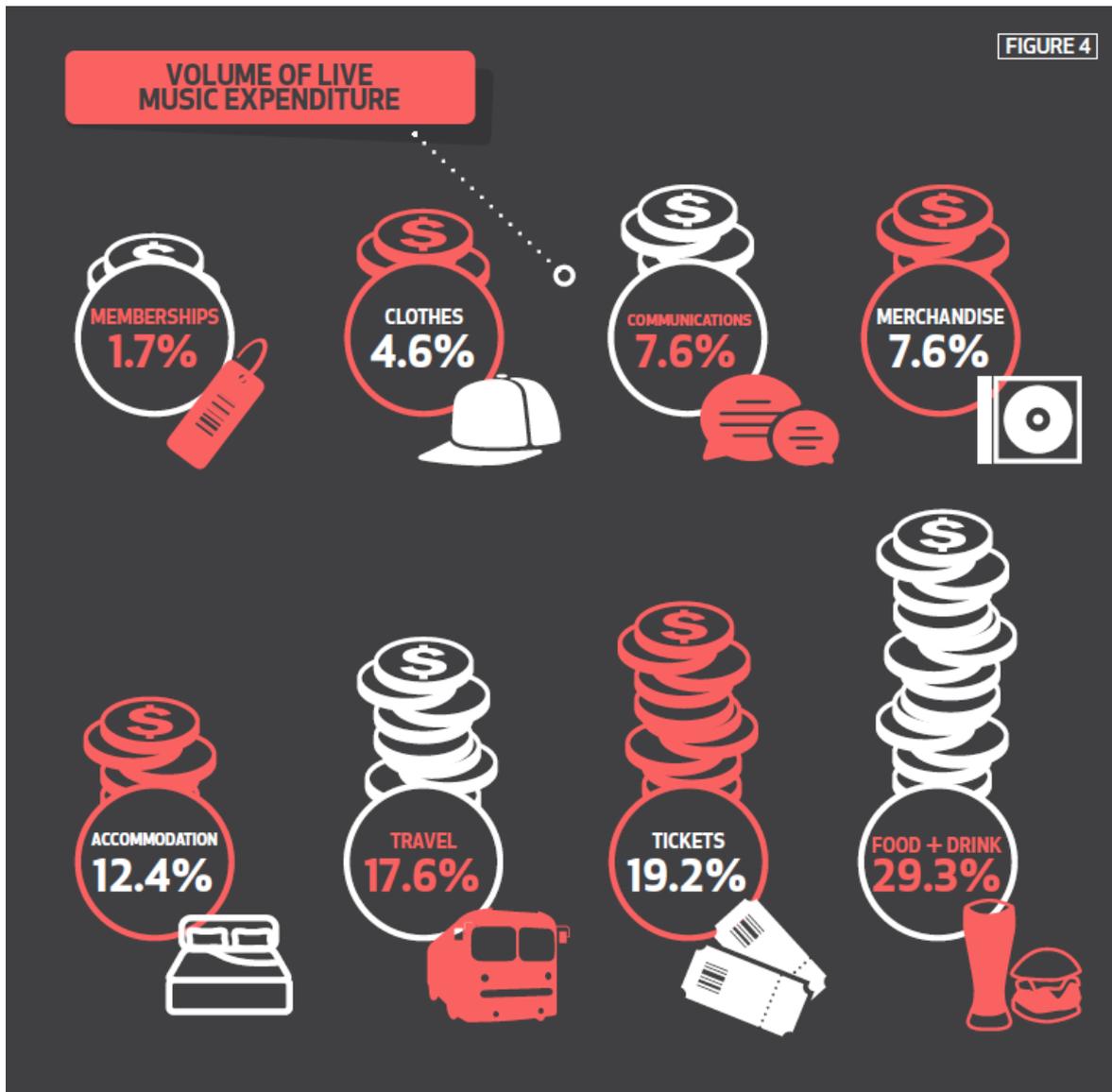
### Live Music Consumption

The consumption of live music actually involves making a variety of related purchases across already defined sectors. In this study a number of these were measured, including:

- Accommodation and related expenses
- Clothes and fashion
- Food, beverages and other consumables
- Fuel, motor vehicle and travel expenses

- Memberships and subscriptions
- Merchandise (including CDs, programs, memorabilia)
- Phone, internet and communication expenses, and
- Tickets / entry fees

The composition of this spending is shown in Figure 4 and applied as a baseline to a number of the estimates of costs and benefits that follow. Of interest is the fact that producer accounts of live music making—even if perfectly conducted—will only ever capture ticket and food and beverage sales. It can be seen in Figure 4 that these categories describe **less than half** of the actual economic impact of live music making in Australia.

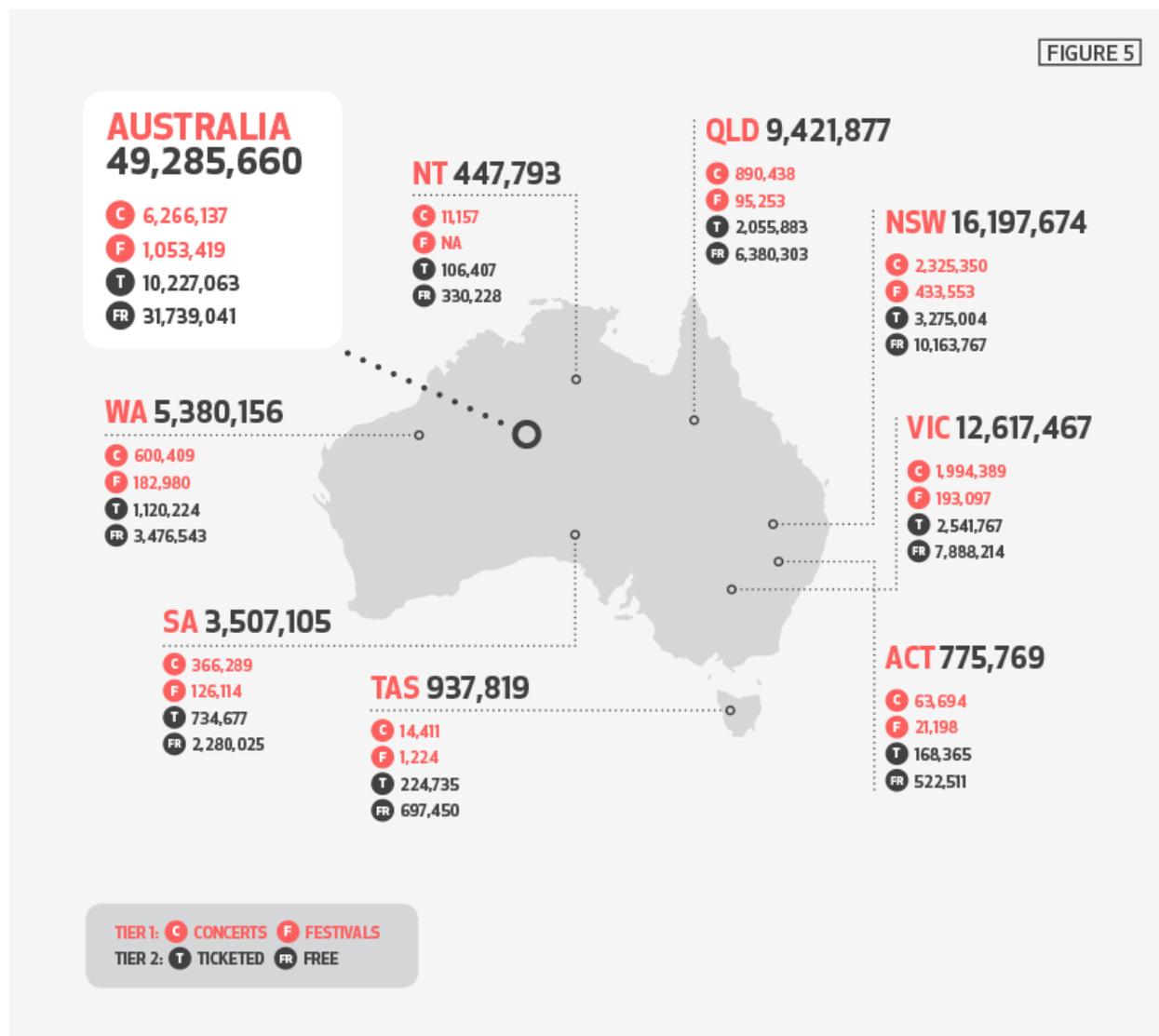


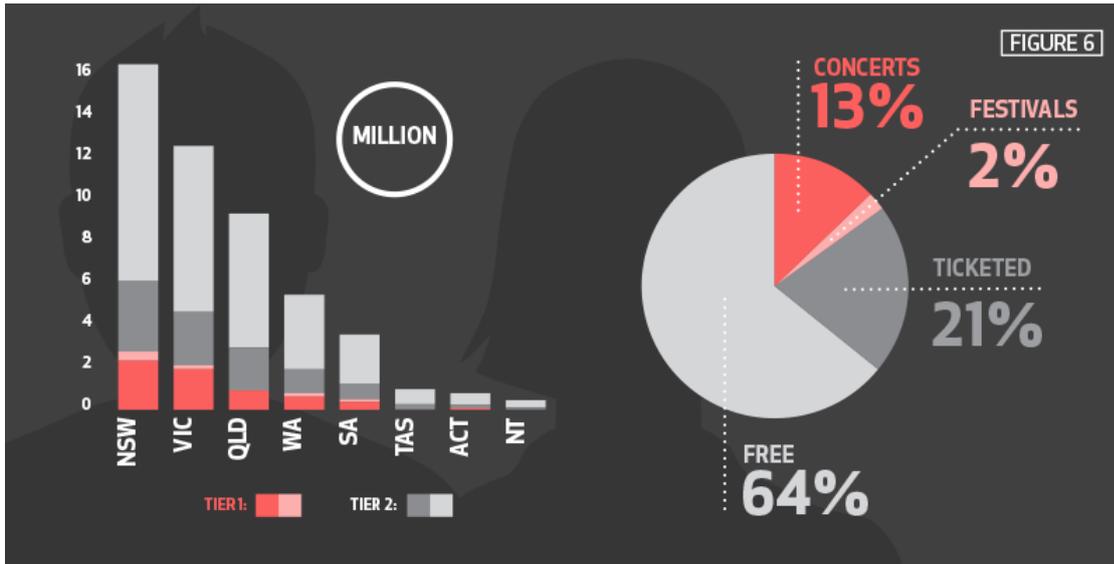
### Live Music Attendance

In the absence of representative primary data, attendance and sales figures were drawn from Live Performance Australia (LPA) and the Australian Performing Rights Association (APRA AMCOS) (*Ernst & Young, 2011, 2014*), and cross-referenced with data from the ABS (2010a, 2014a).

Major ticketing companies, a number of larger self-ticketing venues and promoters, together with the Australian Council for the Arts contribute ticketing data to Live Performance Australia’s (LPA) annual Ticket Attendance Survey and Review. In 2013, it was reported that there were 6.3 million tickets sold to contemporary music concerts at established venues, and another 1.1 million in tickets sales at single category (predominantly live music) festivals (*Ernst & Young, 2014*). These could be described as Tier 1 live music venues / events (*Hearn, Ninan, Rogers, Cunningham, & Luckman, 2004*).

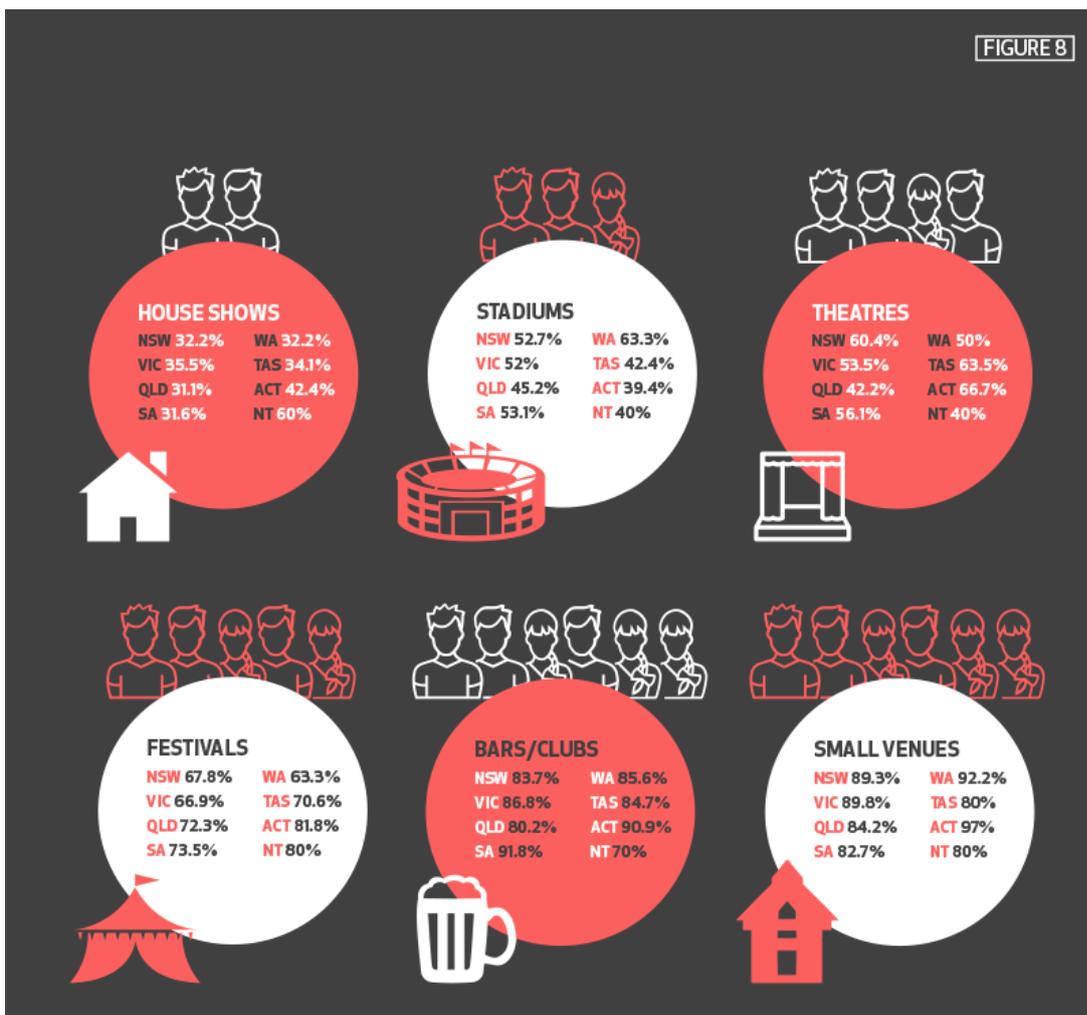
The second Ernst & Young (2011) report on the Australasian Performing Right Association (APRA AMCOS) venue based live music industry revealed a total of 42.0 million live music attendances at, “...pubs / bars, clubs, restaurants / cafes and nightclubs,” licensed by APRA AMCOS to host live music, or Tier 2 live music venues. Of these, 10.2 million were ticketed attendances, with the balance being un-ticketed (presumably free to enter / attend).





**Audience Patterns of Attendance**

The consumers surveyed attended music across a range of venues from house shows to stadium concerts and festivals. Figure 8 shows the percentage of respondents that reported attending live music in each type of venue by state and territory. Figures for the Northern Territory should be treated cautiously as only 0.7 % of respondents identified as living there.



## Implementation Progress: NSW Night-Time Economy Roundtable Action Plan

In December 2016 the [NSW Government tabled its response](#) to the 25 point Report from the [Night-Time Economy Roundtables](#) held across 2016 in response to issues raised by the Sydney Lockouts.

The Live Music Office was an active participant of these Roundtables, in particular advocating for a strategic plan for the NSW music sector, as well as exempt and complying development planning provisions for venues and an associated arts venue definition in the National Construction Code to recognise scale and risk in the building and planning framework for smaller venues.

Whilst these are Sydney CBD specific, we note the [Terms of Reference for this Inquiry](#) also identify Regional NSW as a priority.

Strategic actions for the live music, performance and creative industries from the 2016 [Sydney Night-Time Economy Action Plan](#) include:

Number	Action	Response	Timeline
Action 1.1	Appoint a lead / champion from within government to be a single point of contact on the strategy	Supported	1 Month
Action 2.1	Develop a night-time economy master plan for Sydney	Supported	6 Months
Action 2.5	Review planning controls relating to entertainment precincts, to avoid high concentrations of licensed venues and related cumulative impacts	Supported	12 Months
Action 2.7	Identify reforms to the planning regulations – through changes to Exempt and Complying Development (e.g. to encourage start-ups, creative and small business) and the Building Code of Australia (BCA)	Supported	12 Months
Action 3.1	Establish an online app or portal to provide real time information about what's on	Supported	9 Months
Action 3.1	Collaborative marketing to promote gigs and events through an online portal/app	Supported	9 Months
Action 6.2	Encourage an annual late night event when all state cultural institutions are open	Supported	3 Months
Action 5.1	Encourage and facilitate the use of vacant commercial spaces and public places for establishing pop-up performance and art offerings	Supported	6 Months
Action 5.2	Work with stakeholders to encourage and facilitate the use of vacant commercial spaces and public places for establishing pop-up performance and art offerings	Supported	6 Months
Action 6.3	Identify how vacant/unused spaces in the city centre and Kings Cross could be utilised for events and activities – for example markets, live music, light/art installations	Supported	3 Months
Action 6.5	Identify reforms necessary to the planning laws to enable the promotion and encouragement of multi-purpose venues – (i.e. book stores by day, small bar by night)	Supported	12 Months
Action 6.6	Develop a Contemporary Music Strategy (building on the City of Sydney Live Music and Performance Action Plan) to provide guidance for live music venues / industry	Supported	6 Months
Action 7.1	Establish an integrated media / marketing campaign and program that promotes: Change the language used in communicating with residents and visitors to communicate that 'Sydney is open for business	Supported	6 Months

## Policies for a Diverse and Vibrant Music and Arts Culture across New South Wales

### Delivery of a Strategic Plan for the Music Industry in NSW.

Robust strategic plans for the contemporary music sector at the state level are well in place in [Victoria](#) and [South Australia](#). Adjacent work has also been undertaken in Queensland by the Department of Premier and Cabinet, in [Western Australia](#), as well as industry drafted plans for the [ACT \(Cool Little Capital\)](#).

For NSW, no strategic plan at the state level has implications:

- No established priorities/targeted issues
- Relationships with state/local governments are not necessarily maintained
- Capacity and corporate memory is under developed
- Not a great position to be lobbying for support

As articulated at the start of this submission, the character of the central Sydney CBD is entirely different to even the CBD fringes - then the suburbs, outer metro and regional NSW etc. with regards to venues, opportunities, funding options, access to space, affordability, transport, capacity, priorities and resourcing.

Any strategic planning for contemporary music therefore should have a wider scope than the CBD Plan of Management boundaries, and also have regard to the identified priority areas for Create NSW including:

- Culturally and Linguistically Diverse Communities
- Aboriginal Communities
- People with disability
- Young People
- Gender

Fundamentally, providing a strategic plan for the music industry in NSW will ensure government investment and better regulation/red tape reduction are aligned to the identified issues and needs of the sector.

### Red Tape Reduction: Addressing Overlap in Regulatory Functions

Significant overlap in the regulatory structure are in place in NSW not only in the non-aligned liquor licensing and planning approvals application, variation and community consultation process but further in addressing amenity issues where venues can be subject to complaints across any one or all of the available avenues:

Approvals – Duplicate disconnected processes for town planning and liquor licensing

- Liquor license application – Public exhibition process
- D.A. Planning Approval – Public exhibition process

Noise /Sound -3 separate regulations creating dysfunction / jurisdiction shopping:

1. Liquor Act
2. Protection of the Environment Operations Act – ‘offensive noise’
3. Environmental Planning and Assessment Act - DA consent conditions

These create inconsistencies and uncertainty, eroding confidence and discouraging investment.

For applicants and operators unfamiliar with how the system works, this situation has seen many people embarking on setting up small businesses only to take out commercial leases on premises whilst then subject to non-aligned processes through the licensing and planning process and ultimately walk away from substantial capital outlay without having opened their doors.

We understand there is a commitment from the NSW Government to address the liquor/planning issue in some capacity, however, there has been no progress to date at the state level on the overlap across the three avenues for noise complaints process.

Considering interstate approaches such as [Special Entertainment Precincts](#) in Queensland, the coordinated suite of policies including s.149 certificates from Wollongong City Council as well as the associated policy work under deliberation from the [City of Sydney Open and Creative City](#) work and the [Sydenham Creative Hub](#) provide some direction in addressing these challenges.

### Convening a Streamlining Live Music Regulation @90 Day Change Project across NSW Agencies

Looking to the [2016 South Australian process](#), this initiative proved a precise and efficient model to bring the music sector, state and local government agencies together to examine the regulatory barriers facing bricks and mortar live music venues and to recommend reforms to reduce the regulatory burden for live music venues that we would endorse for NSW.

Throughout 2015, a real momentum in policy development was achieved in South Australia as regular Music Industry Council meetings and regulation roundtables brought the music and hospitality sector into systematic contact with government to consider key regulatory barriers and associated industry development initiatives.

From the collective impetus, the Premier commissioned the Streamlining Live Music Regulation Change@SA 90 Day Project. Its purpose was to examine the regulatory barriers facing bricks and mortar live music venues and to recommend reforms to reduce the regulatory burden for live music venues.

As stated in the Executive Summary of the Change@SA 90 Day Project, *“There is ample scope to simplify the current regulatory system whilst still ensuring that common neighbour and community concerns about noise and safety are addressed”*.

The project was a collaborative effort of South Australian government agencies, the Adelaide City Council, the Live Music Office, the Australian Hotels Association of South Australia, the music industry and the community.

- The 90 Day Change Project was led by the Department of Premier and Cabinet
- There is a strong collaboration between capital city council and state government
- Co-ordination across agencies /Liquor/Planning/Building/EPA/LGA/ as well as music industry, AHA and police
- There is a list of policies delivered here that were not found anywhere across the country - NCC Small Arts Venue SA variation/Exempt Development/ Removing entertainment conditions from liquor licences/Single point case management in capital city council to ensure state government policy works

Following this industry roundtable to identify cumbersome regulations holding back the music industry, state and local government will move to:

- Amend development regulations to allow ‘low risk’ live music in licensed and unlicensed venues, allowing non-traditional venues such as coffee shops to host live music without approvals

- Remove archaic conditions relating to genre or specific musical instruments
- Establish a case management program to support venues wanting to host live music
- Create a grants program to help alleviate the cost of acoustic engineer reports needed by live music venues
- Deliver advisory notices to councils to guide them when making live music related assessments
- Implement further reforms aimed at reducing costs on businesses and local government when acoustic assessments are required.

## Developing a Suite of Planning Approaches to Reduce Land Use Conflict Including Enabling Special Entertainment Precincts

Land use conflict is a significant challenge for sustainable venues in mixed use and urban areas. Developing a suite of planning approaches to reduce land use conflict including a provision in the Local Government Act or associated planning instruments to assist local councils in establishing special entertainment precincts would identify the land use, set the ground rules and spell out regulatory responsibilities. [These arrangements are in place in Queensland.](#)

As Agent-of-Change embeds itself in the public domain widely as the leading set of principles to ensure sustainable venues, there are various arguments being considered by music sector and government raise concerns that the potential for unintended consequences may not being given appropriate consideration, as well as the applicability or otherwise to urban environments where there aren't any existing venues.

Using planning instruments to designate entertainment precincts or areas however puts the onus on residential development regardless of whether there is a venue there or not, which then enables new venues to open up even if the old ones close down or are bought out by developers.

Agent-of-Change is a simpler, easier to negotiate method that may not be beneficial in the long term for areas without any venues currently and delays or avoids having to make difficult decisions and conversations about the land use. We are of the view that an effective approach for the NSW regulatory framework is designating entertainment areas or precincts in planning schemes. This approach that has demonstrated long term benefits but requires the hard decisions to be made up front. We would contest that any consideration of this policy be done in the context of the NSW regulatory framework and cultural geography, rather than relying solely on precedents from other jurisdictions.

### Agent-of-Change

- Sets the ground rules broadly
- Residential and night economy businesses have equal weighting depending on entry into the space.
- Protects existing venues from land use conflict but not new
- Places obligations on grass roots/ancillary activations that may be unnecessarily onerous
- As entertainment venues experience natural attrition, vibrant character is lost.

### Designated Entertainment Precincts

- Sets the ground rules specifically.
- Protects new and existing venues from land use conflict
- Residential subordinate to entertainment land use
- Desired character maintained

Looking to how amenity complaints are assessed – there is the recognised overlap between liquor/planning/PoEO process, with the very real potential for jurisdiction shopping by litigants – in this context, we can't see Agent-of-Change delivering quite the same certainty here in NSW, given the potential for one process to outflank another, whereas a coordinated precinct will better align functions and set the ground rules/expectations. The City of Sydney is doing work here in the Open and Creative City paper from November 2017, as has the City of Wollongong from their coordinated responses.

If we consider how these challenges have been approached elsewhere across Australia, Brisbane didn't adopt Agent-of-Change and has a very successful functioning live music scene, with new venues being able to start up with limited barriers. As the Valley Music Harmony Plan was developed they came to the view that the Agent-of-Change results in the gradual attrition and loss of venues and conversion to residential apartments.

Queensland is in a unique position from a regulatory aspect to address the fundamental issue faced by the live music sector of land use conflict between venues and urban renewal, with the capacity in the Local Government Act for a local authority to declare specific areas with live music venues as special entertainment precincts.

On 1 July 2006, Brisbane City Council created Australia's first designated Special Entertainment Precinct in Fortitude Valley (the Valley). Its creation was one of the first steps towards achieving the aims of the [Valley Music Harmony Plan](#).

The precinct was created to ensure the long-term future of the music-based entertainment industry in the Valley without exposing residents or businesses to unreasonable levels of amplified music noise.

#### [LOCAL GOVERNMENT ACT 2009 – SECT 264](#)

##### **264 Special entertainment precincts**

- (1) This section is about establishing a special entertainment precinct.
- (2) A special entertainment precinct is an area in which—
  - (a) Amplified music that is played at premises in the area is regulated by a local law, and not by the [Liquor Act 1992](#); and
  - (b) The requirements about noise attenuation under the Planning Act apply to certain types of development in the area.
- (3) If a local government wants to establish a special entertainment precinct in its local government area, the local government must—
  - (a) Amend the local government's planning scheme to identify the special entertainment precinct; and
  - (b) Make a local law to regulate noise from amplified music from premises in the special entertainment precinct, in accordance with a permit that is issued for the premises.

Wollongong are also doing well here looking to a NSW example, with their s149 planning certificates identifying the land use for the LGA CBD and Town Centres. This is working in practice because there is a united direction across Council for a coordinated evening economy.

In preparing a suite of planning responses there is a case for providing for Agent-of-Change - within specific geographical overlays— although the potential for losing desired character and creating barriers for start-ups if we rely solely on Agent-of-Change in NSW should be a matter for thought, particularly for areas where night economies have no venues currently.

Looking to the [Sydenham to Bankstown Urban Renewal Corridor](#) for example, if we want healthy sustainable night economies here alongside the proposed intense infill of residential development density concentrated on stations along the line, Agent-of-Change may not be a catalyst for growing a thriving series of new venues. We note in this context that the Sydenham Creative Hub was the only reference to night economy development in the Sydenham to Bankstown Urban Renewal Corridor, which was recently voted against by the new Inner West Council, having had unanimous support over 5 years in development as well as in-principle Gateway approval by NSW Planning and Environment.

The Live Music Office is a member of the Victorian Live Music Regulation Roundtable, and we are pleased to see that Agent-of-Change is delivering results for the venues there where adjacent residential development is being proposed. Note that in Victoria noise complaints for live music venues are assessed through the SEPP N2 environmental protection laws, whereas in NSW we have the offensive noise provisions in the PoEO Act as well as a duplicate complaints process in the Liquor Act 2007, which doesn't exist in Victoria.

---

For further reference on Agent-of-Change

See London UK Reference [Policy D12 Agent-of-Change](#)

#### [Music Victoria How to: Agent of Change](#)

*On 4 September 2014, the Victorian state government introduced the 'agent of change' principle into planning law by way of **Planning Scheme Amendment VC120** and **Clause 52.43**.*

*The new provisions impose obligations on the 'agent of change', for example a residential developer, with respect to noise from live music performance across Victoria, and aims to protect live music venues from residential encroachment. The agent of change principle requires a developer to include noise attenuation measures when a proposed residential development is within 50m of an existing live music performance venue. In practical terms, this means that **a new residential planning proposal** close to a live music venue **will need to include appropriate** noise attenuation measures. Similarly, if a **live music venue seeks to expand, the owner/operator will be responsible** for attenuating any noise effects that are caused by that change.*

*The 'agent of change' principle is triggered automatically when a new planning permit application is lodged, and is unprecedented planning reform for live music.*

## Designating Responsibility for the Night Economy / Night Economy Commissioner

*Action 1.1 from the NTE Roundtables was to establish a new entity within Government which has ongoing responsibility to implement and monitor action plan progress and liaise with stakeholders to foster and promote Sydney's Night-Time economy, with regular reporting to the Deputy Premier*

*Following NTE Roundtable number three, it was determined by the Roundtable Chair that the Executive Director, Arts NSW would lead the taskforce with responsibility for implementation, liaising with key stakeholders and monitoring progress of the measures contained in the Sydney Night-Time Economy Action Plan.*

Subsequent to the coordinated work happening in the Sydney CBD, the scope is now widening for greater Sydney and regional NSW. In this context and the need for a role with the authority to drive change across agencies should be recognised, also acknowledging the important work undertaken to date by Create NSW.

There has also been extensive discussion around the rationale or otherwise for a Night Mayor/ Tsar to act as a public interest advocate. Again, local context here is a primary consideration, and whilst a Night Tsar or Night Mayor may be the answer for London/Amsterdam, if we look to greater NSW whilst not without potential, these are localised positions and may ultimately be less effective than a go to person within government. Looking to the operational carriage of the broad responsibility to deliver change across agencies, this could take the form of a Minister for the Night Economy– or a dedicated area in the Department of Premier and Cabinet.

There is also an argument for a commissioner style role for the Night-Time economy, a similar position to the small business commissioner. One of the concerns about a ministerial role is that it excludes someone from the industry with sector knowledge from taking the role. The benefit of a Night Mayor / Tsar, although may not have the required authority for the task in this instance, is that they have a detailed understanding of the industry and are directly sourced from the sector. A commissioner could possibly provide this while still ensuring direct access and influence to government.

## Music Development Office

A Music Development Office or equivalent would dedicate roles in government agencies to the music sector. This is in place in [South Australia](#), as well as [Victoria](#).

*The South Australian Government has set up the Music Development Office (MDO) as a collaborative union of 'Arts' and 'Industry Development', to support the ongoing development of the music industry in South Australia. This includes the delivery of initiatives that facilitate artistic and business development, market development and export strategies, within a supportive music cluster environment that incorporates commercial operators and broader creative industries, and aims to accelerate industry growth and attract investment.*

See the [Music Development Office Website](#)

The Live Music Office has extensive experience working with the Music Development Office in South Australia as well as Creative Victoria and would endorse these models as successful initiatives that would underpin interaction between industry and government in NSW.

## Music Industry Hub

Providing the music sector with a building where peak bodies and private sector initiatives can be situated has proved to be invaluable in South Australia, with the St Pauls Creative Centre also providing a venue for state regulation roundtables and the Music Industry Council. A similar approach for NSW would deliver greater capacity to support sector development.

To give an idea of how this is working, see the [St Pauls Creative Centre Website](#)

*St Paul's Creative Centre is a unique co-working and shared office space for those working in arts and creative industries & technology, based in the heart of Adelaide.*

*Featuring open-plan working areas, [Gig City](#) high speed internet, creative spaces, training rooms, private meeting rooms, and a stunning function space under the lofty church rafters, St Paul's is more than a building with a wow factor, it's a creative community.*

*Whether you are a freelancer, a start-up or a small business team, St Paul's is a flexible space designed to adapt to your business and creative needs.*

*St Paul's is also home to Fab Lab Adelaide (digital fabrication workshop) and the SA Music Hall of Fame (memorabilia display). Both are open to the public, see [Current Members & Events](#) for details.*

*St Paul's Creative Centre is an initiative of the State Government, through Arts South Australia.*

A similar type of initiative has been established for innovation at the [Sydney Start Up Hub](#)

## A NSW Arts Venue Variation to the National Construction Code (NCC)

In 2016 the South Australian Government introduced a small arts venue state variation to the National Construction Code – This red tape reduction measure supports the establishment of smaller dedicated performance spaces by assessing buildings to retail rather than theatre specifications for the purposes of building compliance.

Prepared by the Live Music Office in partnership with Sydney Fringe Festival and Music NSW, in September 2017 a submission was made to the Australian Building Codes Board that proposes that the New South Wales (NSW) and South Australian (SA) variations to the National Construction Code (NCC) definition of **Assembly Building**, associated NCC definitions of **Class 6**, as well as the SA **Small Arts Venue** variations be a matter for consideration to be adopted nationally by all states and territories in the NCC 2019.

Firstly, we advocate for a Small Arts Venue variation (or equivalent) to be introduced for NSW/nationally. Given that this is already in place in SA, we seek to ensure that as an industry we have a nationally consistent approach from the NCC where best practice state variations have been introduced and recognised.

This principle would then apply to the NSW and SA variations to 9b Assembly Building already in place, to be also applied as a consistent national definition.

We appreciate that there would need to be consideration of the detail, given the slight but important differences already in the NSW and SA Assembly Building definitions. We are aware that the Australian Building Codes Board (ABCB) is not responsible for state variations.

We also submit that serious consideration be given to increasing the capacity of the Small Arts Venue precedent from SA for wider application to expand from the current 300m<sup>2</sup> to 500m<sup>2</sup>, acknowledging that many provisions for 300m<sup>2</sup> and 500m<sup>2</sup> are similar (P.14/15).

Our proposal identified two distinct problems that could be addressed by reforming these provisions in the NCC for 2019.

1. The issues facing small to medium creative spaces and the application of definitions designed for larger premises with entertainment/assembly land use activity,
  - Lack of affordable appropriate small-medium sized cultural spaces for performance, rehearsal and multi-purpose use.
  - Restrictions on building use and land use that prohibits low-impact cultural use or performances in many areas that would otherwise suit that type of activity.
  - Lengthy and costly project timelines that prohibit temporary cultural activity or support sustainable grassroots business models.
2. The uncertainty and relevance of retaining identified clauses in the definition of Assembly Building pertaining to *(i) a discotheque, nightclub or a bar area of a hotel or motel providing live entertainment.*

The 2015 [Sydney Fringe Festival Findings Of The Pop-Up Theatre Pilot Project](#) Report delivered by Festival Director and CEO Kerri Glasscock speaks to the issues the sector faces in the introduction.

In many instances, managers of small and medium creative spaces, generally under 500m<sup>2</sup>, have found focusing primarily on arts and cultural activity has drawn them into regulatory categories designed for much larger theatre and performance space. Whilst relatively defined regulatory pathways exist for small bars and retail spaces, regulation does not appear to scale effectively between small and large creative spaces.

Currently, creative spaces are often subject to definition within the planning system as 'Entertainment Venues' and, within the building system, as 'Assembly Buildings'. These categories have been designed for nightclubs, major halls and public buildings such as airports and schools. Whilst they can be adapted to apply to smaller creative spaces, this can only be done at a cost well beyond the limited resources of smaller creative enterprises, and with time-frames which make short term and temporary projects untenable.

Increasingly artists are presenting work that is breaking with tradition, is multi-genre, and pushing the boundaries of form and function. These contemporary works require a very different venue from the traditional theatres of old.

When weighing up the average inner city retail property to lease short term, with the producer retaining all box office earnings, a pop-up retail conversion becomes an economically viable option to hiring a traditional theatre space. Rental rates are generally cheaper than accessing one of the limited hireable spaces, time spans are more flexible, and the producer has greater control over ticketing, staffing and other conditions. This increased control over ticket pricing and expenses makes it possible to make a profit, rather than the investing most earnings back into hiring the venue.

If artists were able to legally and affordably use available, empty spaces the current venue crisis would literally cease to exist.

Sydney Fringe Festival Director and CEO Kerri Glasscock

Numerous government reports and commitments to industry nationally have identified the operation of these provisions in the NCC with particular regard to being a barrier to small to medium sector arts and cultural land use.

This proposal directs the ABCB to the supporting documents produced by the Live Music Office, Sydney Fringe Festival and the City of Sydney that investigate the challenges created by the current system, including;

- 2015: [Live Music Venues and the Building Code of Australia Issues Paper](#) - Skip Consulting.
- 2015: [Low Risk Arts and Cultural Venues - NSW Case Study for National Application](#) - Design Collaborative.
- 2015: [Sydney Fringe Festival: Findings of the Pop-Up Theatre Pilot Project](#) (Sydney Fringe Festival).
- 2016: [New Ideas for Old Buildings Report – City of Sydney.](#)
- 2016: [Sydney Fringe Off Broadway Report](#) (Sydney Fringe Festival / Live Music Office).

#### **Additional primary sources:**

**New South Wales:** The 2013 [NSW Government Creative Industries Action Plan](#) found that *Further, anecdotal reports suggest that current Building Code of Australia, health and safety and fire regulations provide unreasonable financially prohibitive restrictions for new venues to operate, particularly in Sydney. A deeper examination would assist in a better understanding these issues.*

**New South Wales:** In June 2015, the City of Sydney partnered with the University of Sydney and the Live Music Office to host a forum, Creative Spaces and the Built Environment. Including a presentation by Sydney Fringe Festival, the findings from this forum published in the [New Ideas for Old Buildings Report](#) present a strong case outlining the problem.

**New South Wales:** The [December 2016 NSW Government response](#) to the Sydney Night-Time Economy Roundtable supports report action Action 2.7 *Identify reforms to the planning regulations – through changes to Exempt and Complying Development (e.g. to encourage start-ups, creative and small business) and the Building Code of Australia (BCA).*

**Queensland:** Prepared for the Queensland Department of Premier and Cabinet, the 2 December 2016 Music Industry Working Group Outcomes Report under the section *improving regulation: Planning and permitting*, recognises the need to *“Redefine what a venue is? And any barriers for building code, regarding compliance, DA”.*

**Western Australia:** The WA Labor Policy | February 2017, [CREATIVE WA: SUPPORTING THE ARTS & CREATIVE INDUSTRIES](#) includes a commitment to: *Introduce a State Planning Policy on live performance to streamline the approvals process for live performance, ensuring consistency across local governments.*

**Victoria:** In a July 2017 letter to the Victorian Planning Minister by Dr Kate Shaw from the University Of Melbourne School Of Geography, also endorsed by Jon Perring from Fair Go 4 Live Music (FG4LM), Helen Marcou from Bakehouse Studios/Save Live Australia’s Music (SLAM), and John Wardle from the National Live Music Office, a submission was made as follows:

*We’re concerned that musicians and artists are constrained in their practices by the Victorian planning system, along with broader community access to their performances and works. The current land use definitions, zone use tables, building class definitions and lack of integration between state planning systems and the Building Code of Australia (BCA), do not accommodate contemporary arts and cultural land-use practices. This is resulting in arts initiatives either being prevented from starting up, or operating illegally.*

**South Australia:** On 10 February 2016, the Premier announced an industry-led red tape reduction review aimed at supporting Adelaide's live music venues. The resulting '[Streamlining Live Music Regulation' 90-day Change@SA project](#) was established to investigate and implement reforms. The case studies examined by the project team illustrate how this complex system has led to delays, burdensome conditions being placed on licensees through the planning and conciliation process and operators incurring significant costs for acoustic engineering reports, noise attenuation works and building code compliance. This complexity creates a disincentive to showcase music in an existing venue or to or open a new live music venue.

*The project team undertook a rigorous analysis of the legislative environment, conducted interviews, prepared case studies and formed an industry reference group that provided advice about live music related issues. There is ample scope to simplify the current regulatory system whilst still ensuring that common neighbour and community concerns about noise and safety are addressed.*

As mentioned previously, we also submit that serious consideration be given to increasing the capacity of the *Small Arts Venue* precedent from SA for wider application to expand from the current 300m<sup>2</sup> to 500m<sup>2</sup>, acknowledging that the provisions for 300m<sup>2</sup> and 500m<sup>2</sup> are similar.

The requirements of the Building Code for Class 6 and Class 9b buildings are generally comparable, except the requirements for smoke hazard management, which are more onerous for Class 9b.

Both Class 6 and 9B require Hydrants and Hose Reels for buildings over 500m<sup>2</sup> floor area.

### **Adjacent Changes to a State NCC Small Arts Venue Variation**

Alongside providing for more flexibility with the standard instrument for multi-use arts and cultural land use, to ensure that the intended lowering of cost and red tape in NCC and planning regulations achieves the aspiration of the establishment of small venues, also providing for more flexibility in associated requirements - such as for commercial trade waste-water from Sydney Water Grease Trap default specifications - will be necessary.

Grease traps must be at least 1,000 litres, because this is the minimum size to capture grease efficiently. The maximum size is 5,000 litres to ensure ease of pump outs and clean outs.

[https://www.sydneywater.com.au/web/groups/publicwebcontent/documents/document/zgrf/mdq1/~edisp/dd\\_045460.pdf](https://www.sydneywater.com.au/web/groups/publicwebcontent/documents/document/zgrf/mdq1/~edisp/dd_045460.pdf)

Sydney water could provide lower capacity alternatives for smaller (and arts and cultural) premises as is the case in Victoria, for example.

## Exempt and Complying Development for Low Impact Entertainment

Introduced in South Australia in January 2017 and for galleries and museums in Victoria in December 2017, designating low impact entertainment as exempt development would cut red tape and provide a level playing field for creative practice, ensuring that risks and impacts are the primary objectives of regulation.

Why is it that when we put a large screen TV in a retail premises there's no DA approval even considered but put in a piano and it's a change of use? Or is it?

As part of the Safe and Vibrant Sydney Night-time Economy Roundtables in 2016 the Live Music Office advocated for the inclusion of an exempt and complying policy from the NSW Government – this is reflected in Action 2.7

*2.7 Identify reforms to the planning regulations – through changes to Exempt and Complying Development (e.g. to encourage start-ups, creative and small business) and the Building Code of Australia (BCA).*

The Live Music Office has worked closely with the South Australian Government and industry in recent years delivering the [SA Development \(Low Impact Entertainment\) Variation Regulations 2017](#).

Looking to other recent examples of exempt development:

The NSW Government provided an exemption for DA trading conditions for last New Year's Eve to trade until 2am for licensed premises where their standard trading for a Sunday would've restricted operation to 10pm/12am depending on location.

<https://www.legislation.nsw.gov.au/EPIS/2017-662.pdf>

See also following from Victoria in December 2017:

Amendment VC142 makes a number of changes to the VPP and all planning schemes in Victoria.

[https://www.planning.vic.gov.au/data/assets/pdf\\_file/0025/93085/AN67-Amendment-VC142.pdf](https://www.planning.vic.gov.au/data/assets/pdf_file/0025/93085/AN67-Amendment-VC142.pdf)

- Making 'Art gallery' and 'Museum' Section 1 (permit not required) uses in the Mixed Use Zone and Commercial 2 Zone. This change supports new creative businesses and promotes the arts by allowing these low- impact uses to establish without a permit in appropriate locations.
- Making 'Art and craft centre' a Section 1 (permit not required) use in the commercial zones. This change supports a growing industry and allows this low-impact use that is consistent with the purposes of the commercial zones.

There's further momentum happening at the local level with the City of Sydney preparing an exempt development policy from their Open and Creative City Discussion paper and the Inner West Council also committed to a localised approach.

## Providing Clear Guidelines on Ancillary Entertainment Activity

In the absence of an associated Exempt Development definition under the planning scheme for low impact entertainment, providing clarity for the music and creative sector on what types of arts and cultural land use is [characterised as ancillary use](#) will encourage grass roots activity.

Why is it then that when we put a large screen TV in a retail premises there's no DA approval even considered but put in a piano and it's a change of use? A direction right here will provide the way forward.

## Collaborative Marketing Initiatives to Promote Gigs and Events.

Supporting collaborative marketing programs between local government and industry for greater Sydney and regional centres would be of real assistance not only to our industry venues and artists, also to build audiences, and change the wider narrative and perception around evening economies; that we have great venue based live music going on, and it's recognised, celebrated, and communicated by state and local government.

If we look to how other cities around Australia are providing destination marketing for their music scenes, there are a number of profile initiatives:

1. [City Sounds Brisbane](#): City Sounds is Australia's largest free live music program, presenting local and touring bands and artists in the Queen Street Mall, Post Office Square, South Bank and other locations around Brisbane each week.
2. [Umbrella Adelaide](#): Umbrella Winter City Sounds was held from 14th July to 30th July 2017, offering an exciting smorgasbord of curated live music projects and other performances across the Adelaide CBD to warm and illuminate the colder weeks.

Partners include the Adelaide City Council, Guitars in Bars with generous funding assistance from the Australia Council, the Australian Hotels Association (SA Branch) And the Music Development Office (MDO) with the South Australian Tourism Commission through the Live Music Events Fund.

3. [Melbourne Music Week Live Music Safari](#): Live Music Safari is the peak of Melbourne Music Week's party vibes. Some of the most talked about musicians perform across sixteen Melbourne venues - nonticketed, and free of charge.

## Recognition of NSW Best Practice as Models for Wider State Application

There have been a series of responses to identified industry issues from local government in NSW including a coordinated suite of responses from Wollongong City Council, the City of Sydney Open and Creative City work and Inner West Council with their Sydenham Creative Hub live music precinct. Communicating this work broadly as case studies for wider application would expedite cultural and land use planning outcomes for the sector across greater NSW.

The [NSW Councils' Night Time Economy Forum](#) hosted by City of Parramatta in October 2017 was widely recognised as being of great value for everyone involved, to give an example.

Undertaken in 2013/14, the [City of Wollongong Live Music Taskforce](#) saw 42 Actions passed through Council in April 2014.

From this process, a range of better regulation approaches were delivered quickly, that also supported associated actions items in preparation at that time. These have been a solid foundation from which the music industry and events are doing well. These measures could also be introduced by any Council in NSW within the existing regulatory framework and require no changes to legislation.

The Live Music Office is of the view that the following measures introduced by Wollongong City Council in place now would be of great assistance in supporting arts and cultural practice across metropolitan and regional NSW if more widely adopted.

### Planning Certificates – [s.149 Certificate](#).

In NSW local councils require a s.149 certificates to be lodged when undertaking property development or transactions. These certificates require the applicant to acknowledge the zoning and other relevant conditions applicable to the property and existing land use. In Wollongong these may reference the evening economy, cultural businesses, noise, traffic, and longer hours of operation (see below).

*The Wollongong City Centre and Town Centres, play a key role in accommodation, cultural, sporting and business uses. A key to the revitalisation of these centres' is to build on these aspects through greater activation and investment beyond 5pm through an evening economy. Future residents should be aware that these uses may generate noise, odour, traffic and have longer hours of operation, which is part of living in/near a commercial centre.*

**Acoustic Privacy Conditions** have been required on residential development in the CBD to ensure residents who choose to live in the town centre have buildings that are actually designed for evening economy areas - This includes double glazing external sliding doors and windows for reducing traffic and other low frequency noise such as music from surrounding night clubs.

For example, the following conditions were required of a larger residential development on Crown St on the site of the former Oxford Tavern in the CBD.

*The double glazing from the facades specification is as follows:*

- a) Glazing for Acoustic requirement – Double glazing external sliding doors and windows;*
- b) 6mm glazing –100mm air gap –6 mm glazing set in a sealed metal or timber frame to achieve the sound insulation of a window and sliding door system (Rw40 –45);*
- c) The apartments from 1st/2nd floor to 7th floor window and sliding door system should achieve sound insulation (Rw43 –45);*
- d) The apartments from 8th floor and above window and sliding door system should achieve sound insulation (Rw40–45);*
- e) Frames should be well sealed internally and externally to provide acoustic, thermal and moisture protection. Awning windows are preferred to sliding windows as they are able to achieve a positive compression seal;*
- f) The air gap between the two panes should be at least 100mm that is good for reducing traffic and other low frequency noise such as music from surrounding night clubs.*

### Coordinated Noise Complaints Process

In the Wollongong LGA noise complaints against live music/licensed premises can be considered by the [Community Safety Reference Group](#) – where Council and the Local Area Command convene on wider issues around licensed premises and public safety. This provides a greater context for these issues to be considered collectively, and importantly is decentralised and directly involves local cultural officers.

*The purpose of the Community Safety Reference Group (CSRG) is to bring partners together (NSW Police; Local, State and Federal Government agencies; non-government agencies and the community) to identify and drive the development of specific strategies to improve and enhance community safety in the Wollongong Local Government Area.*

## DA Information Sessions

The Small to Medium Enterprise Planning advice team focus on applications such as new cafés, small bars, shops, service providers, or new industrial unit occupiers. Small businesses including creatives looking to establish in the Wollongong LGA can access guidance from Council prior to [pre-lodgement meetings](#).



**Development Approval info session**  
 Tuesday 16 August 2016, 5.30 - 6.30pm, Wollongong City Council  
 Administration Building, Level 9 Function Room, 41 Burelli Street, Wollongong

Are you looking to start a café, bar, shop, gym, light industry or other small business venture? Or are you a property owner, commercial property agent or planning consultant dealing with small businesses?

Join Council's Small Business Planning Team for a free one hour session on getting the necessary approvals. Topics to be discussed will include the following:  
 Do I need approval?; Development application process; Common problems;  
 Local case studies; Q&A. Refreshments (tea & coffee) provided.

RSVP: [www.eventbrite.com.au](http://www.eventbrite.com.au) (search Small Business Planning)

For any queries, contact the Small Business Planning team:  
 email [smallbusiness@wollongong.nsw.gov.au](mailto:smallbusiness@wollongong.nsw.gov.au)  
 call (02) 4227 7111

Small Business planning | wollongong

**Streamlined Events Process** – Event sites have standing DA's in place, no applicant D.A.s required  
 Wollongong City Council has lodged its own DAs for a number of sites in the LGA to gain a generic approval for a range of events.

The Events Team now also have an associated streamlined approval system which simply checks proposed events against the consent conditions, much like a certifier.

[See Wollongong City Council Events Toolkit](#)

## City of Sydney – Open and Creative City

Whilst still in the development stage, the policies being considered by the City of Sydney through the [An Open and Creative City: planning for culture and the night time economy discussion paper](#) are looking at localised responses to key themes discussed in this submission, including;

- Encouraging more small scale cultural uses through exempt development for events hosting up to 50 people, up to 26 nights annually and within designated of the CBD;
- Scoping out a model alternate solution to the deemed to satisfy provisions in the National Construction Code informed by the South Australian Small Arts Venue and the [Victorian Small Live Music Venue Regulation](#);
- Fair management of noise impacts by applying the 'agent of change' principle; Planning controls for new venues and for new noise-sensitive development; new noise compliance guidelines to provide greater certainty and consistency.
- Allow shops and local businesses in areas with an established retail character to extend their opening hours without a new development consent from 7am to 10pm, seven days per week.

### **Inner West Council**

Council's vision for the Sydenham Creative Hub was for a vibrant entertainment and employment precinct where music venues, small bars, restaurants live and cafés thrive alongside traditional and creative industries.

The area in question was one of the last appropriate areas of our inner city to establish a vibrant, supported live music and creative industries precinct. It had

- Substantial existing arts and cultural character developed organically over time
- Under the flight path where residential development is restricted by noise levels
- Building stock that is compatible and affordable
- Directly adjacent to a major transport interchange

Unfortunately despite 5 years in planning, unanimous support from Council and strong community support as well as in principle gateway approval from the NSW Planning and Environment, this initiative was voted down by the new Council in February 2018, much to the distress of the Sydney music, arts and cultural sector, and in particular, those of us who had worked with Council over the 5 years of preparing the initiative.

### **Local Government Support**

Another case study comes from the Local Government Association of South Australia -

The SA LGA Annual General Meeting (October 2016) requested that the LGA Secretariat initiates the development of an online resource page to support member councils in developing Live Music Policies and Live Music Action Plans.

The LGA's Local Government in Live Music workshop (7 April 2017) provided an opportunity for councils to come together to consider development of live music policies.

- What are the ways in which councils can support live music – and why?
- Options for council policies and action plans (consider Case Management approach, and opportunities for individual councils and regional collaborations – 90 Day Change)
- What resources do councils need to design policies and action plans (how can we work together to build capacity)?
- What are the barriers for councils in setting policies and action plans (strategies to address)?

### **Single Contact Case Management**

As part of the SA Streamlining Live Music Regulation project, the case studies and feedback from industry confirm that the delivery of a case management service for live music venues would be of considerable benefit in easing the regulatory burden on venues.

The functions of the case management service are to provide:

- Access to a collaborative and coordinated process to assist in preparing applications
- Guidance for proponents through the regulatory system
- A single accountable point of contact
- Assistance in navigating the planning, building assessment and liquor licensing system
- An efficient and integrated approach in which planning approval is consistent with operational licensing requirements.

Case management support is available for the music / creative sector in

- Wollongong City Council
- City of Adelaide
- City of Sydney

## Lockouts Exemptions for Newcastle Live Music Venues

[Currently undergoing a review](#) by the NSW Government, the live music sector is seeking parity with Sydney conditions by removing some restrictions on trading as well as exemptions for live music venues in Newcastle, recognising that these have been effective in the Sydney CBD.

With many performing opportunities being provided by licensed premises, and hotels in particular, blanket conditions that impact on hours of operation without regard to responsible management and operation of these businesses have associated implications for the live music and cultural development and sustainability of the City. Where other centres and communities have voluntarily adopted their own tailored lockouts conditions, what is from our understanding unique to Newcastle and the Sydney CBD is the application and management of these conditions.

The Newcastle solution has been widely referenced as a silver bullet answer to addressing alcohol related violence however there have been good results achieved without the associated implications for reputation, business confidence and narrative that the government decreed conditions have also brought with them.

This was recognised in a [30 December 2013 Media Release](#) from then Minister George Souris, NSW GOVERNMENT'S ALCOHOL CRACKDOWN WORKING

*Other local communities have achieved significant reductions in alcohol-related violence using tailored measures – not by adopting the Newcastle model.*

*“While there was a 26 % reduction in violent incidents in Newcastle’s licensed premises between 2008 and 2012, there was a 28 % reduction State-wide over the same period.*

*“During this period there were greater reductions in violent incidents for other parts of NSW according the NSW Bureau of Crime Statistics and Research (BOCSAR) – without the Newcastle conditions.*

Looking to the current review, there have been a series of constructive recommendations put forward by Council, the community and the hospitality sector to guide a way forward that would recognise well run venues, the concerns of the music industry and shift the overarching reputational implications of lockouts, whilst still ensuring venues are well managed and public safety and amenity remain prioritised.

- The Live Music Office has advocated for exemptions to the lockouts in Sydney for dedicated live venues which have been endorsed by the NSW Government and this modest concession has been successfully implemented, showing a way forward for diverse offer and supporting jobs and opportunities for artists.
- The hospitality sector is seeking further parity with Sydney conditions around removing some restrictions on types of drinks being sold as well as exemptions for live music venues.
- Newcastle City Council are on the record as saying “We need laws that incentivise licensed venues to strive to make our CBD safer” and “It’s council’s view that venues who consistently demonstrate outstanding responsible service of alcohol should be allowed to trade longer than those that occasionally don’t”

Importantly, we would argue that this review provides an opportunity to shift the narrative for the wider cultural and economic development of the City of Newcastle. Whilst the blanket lockouts are applied to 14 Hotels and bars from an individual venue perspective, by association there are very real implications for the perception of the greater city that it could be argued has moved on.

## Further Investment in the Live and Local Micro Festival Strategic Initiative

This exciting initiative supported by Create NSW and delivered by the Live Music Office is proving to be a fantastic vehicle for connecting musicians, venues and local government in Western Sydney and regional NSW. With only 8 councils in regional NSW able to be funded in the current round, there's great potential for wider accessibility for regional and remote NSW with further support from the NSW Government.

The [Live and Local Strategic Initiative](#) provides funding to bring local councils, local businesses and local musicians together to stage free family-friendly 'micro-music festivals' for the public.

The Live and Local event model aims to increase employment opportunities for local artists by activating traditional and non-traditional performance spaces in the local community and establishing successful on-going working relationships between local council, artists and businesses.

In its first year (2016), five Western Sydney locations were selected to host festivals, supported by \$150,000 from Create NSW (then Arts NSW). Events have now taken place in Camden, Parramatta, Wollondilly, Blacktown and Fairfield.

100% of the funding is used to cover the fees of local musicians, curators and technicians involved in staging the respective events.

After success of the first year's events, Live and Local was extended to support regional NSW, as well as a second Western Sydney round.

The NSW Government has since supported eight regional councils with \$150,000 funding and \$100,000 allocated to a further five more Western Sydney councils.

The eight regional councils selected were Orange, Newcastle, Tenterfield, Tweed Shire, Wagga Wagga, Kempsey, Armidale and Mudgee. The five Western Sydney councils selected in the second round are Liverpool, Cumberland, Blue Mountains, Hawkesbury and Campbelltown.



## Balancing the Public Interest Test in Licensing Applications.

We recognise that the liquor licensing regulatory framework is closely associated with the development of the music industry:

- Many live music performances are provided by dedicated licensed live music venues which may also be hotels, clubs, or nightclubs or as ancillary entertainment in hospitality industry premises also including cafes and restaurants.
- Licensed festivals, concerts and events also provide significant jobs and opportunities for musicians, as do community organisations.

For the record, the Objects of the LIQUOR ACT under SECT 3 are as follows -

LIQUOR ACT 2007 - SECT 3

3 Objects of Act

(1) The objects of this Act are as follows:

- (a) To regulate and control the sale, [supply](#) and consumption of [liquor](#) in a way that is consistent with the expectations, needs and aspirations of the community,
- (b) To facilitate the balanced development, in the public interest, of the [liquor](#) industry, through a flexible and practical regulatory system with minimal formality and technicality,
- (c) To contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.

(2) In order to secure the objects of this Act, each person who exercises [functions](#) under this Act (including a [licensee](#)) is required to have due regard to the following:

- (a) The need to minimise harm associated with misuse and abuse of [liquor](#) (including harm arising from violence and other anti-social behaviour),
- (b) The need to encourage responsible attitudes and practices towards the promotion, sale, [supply](#), service and consumption of [liquor](#),
- (c) The need to ensure that the sale, [supply](#) and consumption of [liquor](#) contributes to, and does not detract from, the amenity of community life.

If we look to Object (1) (C) we can see a specific reference to the Live Music Industry, as well as entertainment, tourism, and hospitality industries.

A Community Impact Statement (CIS) is a written summary that describes the potential harm a liquor licence might have on a neighbourhood. We submit that the CIS be rebalanced to also provide an equal opportunity for the positive contributions that licensed premises – particularly for our industry, those employing performers – make to our community, our identity, and of course, our economy.

This would give effect to the associated provisions in the objectives, evidence of which can be hard to find referenced in licensing submissions and decisions.

These could include providing the opportunity to submit in favour of a licence application referencing such great things as:

- Jobs for musicians
- Arts and cultural development
- Contribution to a diverse and creative night economy

Looking to the various organisations that are notified when a liquor licence application is lodged, is it the case that RMS and Health are advised as a matter of process? Why not then the state music organisation MusicNSW, APRA AMCOS, and the Live Music Office then if a premises might be used for entertainment, so we can also provide references in support given the value of licensed premises to the development of our industry.

## Supporting Regional Industry Development Programs

Looking to industry development strategies that may be models for NSW to consider, one example has been delivered in partnership by Music Victoria with local government in regional Victoria. The [Victorian Music Crawl](#) aims to build connections between City-based music industry figures and bands, venues, agents, events, promoters, media and more based in regional Victoria. [The Robert Stigwood Fellowship Program in South Australia](#) is also highly regarded, to mention just a few.

What's fundamentally important however, is that industry development programs are coordinated under the auspices of an over-arching strategic plan that targets identified areas of need as well as better regulation / red tape reduction to optimise the investment outlay.

## Support and Promotion of International Make Music Day across Greater NSW.

We believe [Make Music Day](#) has immense potential to draw out people who make music who would never connect with existing programs. *Completely different from a typical music festival, Make Music is open to anyone who wants to take part. Every kind of musician — young and old, amateur and professional, of every musical persuasion — pours onto streets, parks, plazas, and porches to share their music with friends, neighbours, and strangers. All of it is free and open to the public.*

In particular, this program would be of genuine benefit to remote NSW, where many local councils that might otherwise auspice Live and Local events for example, don't have cultural or economic development staff at hand to provide support.

## Music Industry Support for the Aboriginal Community in NSW

In the context of this Inquiry we recognise the support the state government provides for music industry development to the Aboriginal community in NSW.

[Starting Ground](#) is a targeted ongoing skills development program funded by Create NSW and delivered through the APRA AMCOS Aboriginal Music Office since 2015. The program focuses on the delivery of creative and music business skills to the NSW Aboriginal music creators' community.

- To enhance access to the mainstream music business
- To develop career pathways
- To improve Aboriginal participation in the music economy for emerging and mid-level career music artists.

So far the program has been held in Tamworth, South East NSW (near Merimbula), Byron Bay twice, Western Sydney and Dubbo with more regions to come in 2018. The program also involves ongoing artistic and professional development with master-classes and mentorship programs. So far over 60 regional and western Sydney Aboriginal musicians have taken part.

The Live and Local Microfestival Strategic Initiative for regional NSW and Western Sydney also supports opportunities for Aboriginal musicians, being aligned to identified priority areas for funding body Create NSW.

The APRAAMCOS Aboriginal and Torres Strait Island Office provide the following:

*The importance of music to the cultural life of the NSW Aboriginal Community can't not be underestimated. Music has always been a way for Aboriginal people to spread their stories and knowledge to each other and the wider community. Music is a vital extension of an oral tradition that goes back thousands of years be this through traditional or contemporary music genres. It's important that government recognises this fact and supports and nurtures Aboriginal music now into the future.*

## Recognition that Support for NSW Artists Shouldn't Cease at the State Borders

The Live Music Office would like to also reference the importance to NSW industry development of ensuring that domestic and export initiatives are factored into priorities and funding.

Create NSW (and previously ArtsNSW) have championed [SOUNDS AUSTRALIA](#), the national music export initiative, since its inception in 2009, with the partnership cultivating numerous results for New South Wales artists over the period, however we are aware that the current funding structure makes it impossible for SOUNDS AUSTRALIA to access the grants program.

In this context we refer to the submission by SOUNDS AUSTRALIA to this Inquiry, and attest to the service they provide as a crucial component for promoting NSW artists in what must be recognised as a global market.

## Community Radio

Community Radio plays a genuine role in supporting non mainstream local musicians across NSW, and as such is an integral ingredient in developing our industry at the grass roots. To maintain the important role here we suggest the following:

### Short Term Actions:

1. Recognise the role that community radio plays in supporting local music communities in the city / regions / domestic capital cities;
2. Coordinate a community radio campaign that promotes the Sydney night-time economy as a safe and diverse place to visit for residents and visitors through inner city radio stations.

### Medium Term Actions:

1. State and local government to partner with community radio to develop infrastructure and facilities that support the Sydney and NSW live music sector and safe/vibrant Night-Time economies.
2. This could include improved understanding of station operations and metrics:
  - Short term leases aren't suitable due to significant studio infrastructure requirements;
  - Supporting broadcast tower requirements;
  - Providing for associated performance spaces.
3. Advocating to federal agencies to ensure NSW residents are provided access to primary radio service in digital form on a free-to-receive basis

## Independent Analysis of Licensing Submissions for New and Existing Live Music Venues

The anecdotal evidence from industry and local government is that as applications for later trading for live venues and lockouts exemptions have been lodged that they have been consistently opposed by police regardless of the individual components or potential for jobs and cultural diversity, as well as widespread lobbying for no entertainment conditions on new liquor licenses.

**Action 4.1** from the Safe and vibrant Sydney night-time economy roundtables looks at the role of policing in the CBD.

4.1 Continue support for the ongoing NSW Police approach to community engagement and policing within the precincts; work with NSW Police and relevant bodies to support a safe and vibrant night-time economy. Reinforce and support the philosophy being taken by NSW Police towards friendlier approaches to policing

- Low priority / Low impact
- Within 12 months

The Live Music Office consults widely on a regular basis with Councils, venues, artists and patrons in Sydney as well as monitoring venue interactions with police in the music press.

For the planning, design and place making actions from the Safe and Vibrant Sydney Night-Time Economy Roundtables to be achieved, taking an independent, evidenced based look at how police are actually operating, particularly around responses to licence applications and variations for live music venues, through Liquor and Gaming NSW as well as the City of Sydney and other Councils should be undertaken to provide statistical data on current police policy to the live music industry.

The anecdotal evidence from industry is that as these applications have been lodged for exemptions that they have been consistently opposed by police. To shine some light on whether or not this is factually accurate, Liquor and Gaming would be able to undertake a simple statistical analysis of police support or otherwise to the list of applications submitted to date. The Live Music Office would like to request that this be made available to the Inquiry.

Further to this, we often hear of police requesting no live entertainment as a condition for new liquor licenses, the rationale being that they are of the view that premises with entertainment will venue morph into nightclubs.

Looking to the [NSW Police Force 2014-2018 Alcohol Strategy](#) and the commitment for NSW police to ‘improve it’s response to development applications seeking to establish new licensed premises’,

### PRIORITY AREA 1: EFFECTIVE ENFORCEMENT OF LIQUOR LICENSING LEGISLATION

Objective: To reduce the inappropriate supply of alcohol

What NSW Police Force will do:

- improve it’s response to development applications seeking to establish new licensed premises

Now to the NSW Planning Minister in the SMH on 12 February 2017 –

*The NSW Planning Minister, Anthony Roberts, said changes in 2009 aimed at encouraging venues to provide live music meant that premises did not have to request an extra council approval to feature entertainment.*

Is it the case that on one hand we have [NSW Planning and Environment advising no need for additional approval for entertainment on hospitality industry premises](#) and then on the other hand NSW police vetoing entertainment in licensed premises through the application process?

## Establishing a Community Benefit Fund to Provide Financial Support to the Sector

The Live Music Office advocates for the establishment of a live music community benefit fund along the lines of the South Australian model. This is also an endorsed action from the City of Sydney Live Music and Performance Action Plan, and has in principle support from the NSW AHA.

In NSW there has been a perception that major cultural institutions dominate arts funding priorities over the small to medium sector, possibly exacerbated by having no overarching strategic plan for music.

There are a range of funding options for the industry –

- Australia Council / Create NSW / APRA AMCOS / Music NSW / City of Sydney all have grants programs;
- [Clubs NSW have their grants](#);
- There's also the [Liquor and Gaming NSW Arts and Cultural Infrastructure Grants](#);
- [Crown Resorts have the \\$60m Sydney Arts Fund](#) including \$30m for Western Sydney.

Across NSW, 26 projects have been funded from the latest round of the Club grants infrastructure program, for example. Earlier in 2018 Minister for Racing Paul Toole announced \$220,000 in NSW Government funding for community arts and cultural projects, including support for the Sydney Fringe Festival and independent youth radio station FBI.

Looking to South Australia, the Community Benefit Fund provides at least \$850,000 to programs that would be of benefit to the live music industry.

South Australian Gaming Machines Act 1992 Community Benefit Fund

### [GAMING MACHINES ACT 1992 - SECT 73C](#)

73C—Community Development Fund

- (1) The *Community Development Fund* is established.
- (2) The Fund will be kept at Treasury.
- (3) The money paid into the Fund under this Part will from time to time be applied by the Treasurer, in accordance with the directions of the Governor, towards—
  - (a) Financial assistance for community development; and
  - (b) The provision of government health, welfare or education services.
- (4) Despite subsection (3)
 

, at least \$850 000 must be applied from the Fund in each financial year towards programs that will be of benefit to the live music industry.

Arts South Australia receives the \$850k from Community Benefits Fund each year as per the Act.

This funding is fully expended each year's through Arts South Australia's Contemporary Music programs such as:

- Contemporary Music Grants program (Recording, Touring, Marketing, Professional Development, Festivals and Venues);
- Contemporary Music Organisations funding;
- Strategic Partnerships Funding;
- Pocket Grants;
- Contributions towards the Robert Stigwood Fellowship Program.

## Musicians Loading

Many musicians, particularly in city and town centres, are unable to access loading zones or at risk of being fined when loading heavy equipment in and out of venues unless they park significant distances away or have a specifically approved vehicle.

Musicians loading access is available in Adelaide and the City of Yarra in Australia, and in Austin TX, Seattle WA, and Nashville TN in North America.

For this to be permitted in NSW would require a change in the following regulations to permit standard motor vehicles –

ROAD RULES 2014 - REG 179

[http://www5.austlii.edu.au/au/legis/nsw/consol\\_reg/rr2014104/s179.html](http://www5.austlii.edu.au/au/legis/nsw/consol_reg/rr2014104/s179.html)

179 Stopping in a loading zone

(1) A driver must not stop in a loading zone unless the driver is driving:

(a) A [public bus](#) that is dropping off, or picking up, passengers, or

(b) A truck that is dropping off, or picking up, goods, or

(c) Any of the following [vehicles](#):

(i) A [vehicle](#) that a person is getting into or out of or getting on or off,

(ii) A station wagon or a [motor bike](#) that has 3 wheels and is constructed principally for the conveyance of goods,

(iii) A [motor vehicle](#) constructed principally for the conveyance of goods (other than a [vehicle](#) referred to in subparagraph (ii)).

## Live Music Venue Liquor Licence 2am Standard Trading

Providing standard trading hours for live venues similar to those for the small bar category could be a matter for consideration to assist in establishing new venues. This would also have 2 am standard operational baseline hours to respond to industry programming and consumer demand and align with the small bar standard conditions, with later trading by application.

This could apply to:

1. Premises in respect of which the primary business or activity is the provision of entertainment to members of the public by a person who is physically present on the premises and is actually providing the entertainment.
2. "live entertainment" means—
  - (a) Event at which a person is employed or engaged to play music (live or pre-recorded); or
  - (b) A performance at which the performers, or at least some of them, are present in person; or
  - (c) A performance of a kind declared by regulation to be live entertainment;
3. Additional indicators of primary purpose live music arts and cultural presentation would comprise ticketing for events, APRA AMCOS licensing, involvement in festivals as well as previous operating history.

## National Table of Live Music Policy and Strategy – February 2018

2018	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Contemporary Music Strategic Plan	Yes	-	-	Yes	Yes	Yes	Yes	Yes
Music Industry Council	-	-	Yes	-	Yes	-	Yes	Yes
Regulation Roundtable	-	2016 NTE	-	Yes	Yes	-	Yes	Yes
Best Practice Regulation Review	-	-	-	-	Yes	-	-	-
Music Development Office	-	-	-	-	Yes	-	Yes	-
Music Industry Hub	Ainslie	-	-	-	St Pauls	-	-	-
Contemporary Music Organisation	\$	Music NSW	Yes	Yes	Yes	Yes	Yes	Yes
Live Music Census	-	-	Yes	-	Yes	-	Yes	-
Capital City Live Music Plan	CLC	Sydney	-	Brisbane	Adelaide	-	Melbourne	-
Live Music Precinct	TBC	Sydenham	-	F Valley	-	-	-	-
Single Contact Case Management	-	-	-	-	Adelaide	-	-	-
Local Government Live Music Plan	Yes	Wollongong	-	Sunshine Coast	Norwood / Payneham & St Peters	-	Port Phillip	Vincent
	-	Leichhardt	-	G Coast	-	-	Yarra	-
	-	Marrickville	-	-	-	-	Ballarat	-
	-	Tamworth	-	-	-	-	Geelong	-
	-	Parramatta	-	-	-	-	Mornington	-
State / Local Govt Greater City Strategy	Regional /Western Sydney Live & Local Strategic Initiative		-	-	Adelaide Northern Economic Plan	-	-	-
	Regional	Western Sydney	-	-	Playford	-	Regional	Regional
	Armidale	Bankstown	-	-	Salisbury	-	-	-
	Kempsey	Blacktown	-	-	Port Adelaide	-	-	-
	Mudgee	Blue Mountains	-	-	-	-	-	-
	Newcastle	Camden	-	-	-	-	-	-
	Orange	Campbelltown	-	-	-	-	-	-
	Tenterfield	Cumberland	-	-	-	-	-	-
	Tweed	Fairfield	-	-	-	-	-	-
	Wagga	Hawkesbury	-	-	-	-	-	-
	-	Liverpool	-	-	-	-	-	-
	-	Parramatta	-	-	-	-	-	-
	-	Wollondilly	-	-	-	-	-	-

## Contemporary Music Strategic Plans across Australia

### South Australia

The [South Australian Music Industry Strategy](#) was launched by the Hon. Jay Weatherill, MP, Premier of South Australia on February 2nd, 2018.

Created by the Music Development Office, the Strategy is a collaborative plan to accelerate growth of the music sector in South Australia, with a mission to ensure that the state's music businesses are globally competitive, innovative and have ready access to new markets.

Development of the strategy was informed by an industry consultation process and extensive research, including a report into the economic value of the music sector to South Australia and a mapping exercise to identify the number and type of businesses in the local music industry supply chain. The MDO also assessed global and national industry trends and compared them to trends in the local business environment, and undertook an industry capability analysis to identify the state's relative strengths.

The strategy sets out a plan to increase vibrancy and cultural activity, and drive economic growth and employment for South Australia by facilitating collaboration between all tiers of government, industry and not-for-profit support organisations.

It aims to:

- map existing assets, quantify the size of the industry and develop baselines
- ensure government support continues to align with industry needs
- encourage active collaboration between all stakeholders
- identify and explore opportunities for industry development

Five strategic priorities have been identified to help the sector grow over the short to medium term:

- Activating live music across the state
- Export and international market development
- Music festivals and events
- Media and PR – telling our good news stories
- Technology and digital engagement

### Victoria

Industry development initiatives and live music strategic planning continue to make headway building on the great work of recent years undertaken by the highly capable live music sector in Victoria

Following the 2014 state election the Victorian Government introduced the \$22.2m Music Works program, promoted as the largest and most comprehensive investment by an Australian Government in contemporary music.

Well prepared Live Music plans are also in place at the local government level:

- The City of Melbourne
- City of Yarra
- Mornington Shire
- City of Ballarat
- City of Greater Geelong

In the regulation space, the site specific Agent-of-Change planning controls send a strong message about the importance of live music as urban consolidation puts pressure on existing inner city Melbourne venues, and the Victorian Live Music Regulation Roundtable is planned to meet quarterly in 2018,

Substantial industry development programs funded by the Music Works package include:

- Music Works – Major Funding Rounds - The Music Works Grants program invests in the development and support of Victoria’s contemporary music artists and music industries. It provides support for projects and programs that will develop and bring dynamism to Victoria’s contemporary music sector, increase employment and build cultural capital.
- Good Music Neighbours - Provides matched funding to venues across the state for sound attenuation. These grants help venues be proactive about sound management and offer up to \$25,000 per venue in matched funding. There are two major funding rounds per year, offering funding from \$2,500 up to \$75,000, with the next round commencing 10 May 2017.
- Program to Stop Sexual Assault and Harassment in Live Music Venues - The program is the result of a taskforce and working group that includes members of LISTEN, SLAM (Save Live Australian Music), Music Victoria, Live Music Office and Victorian Police that was convened in mid-2015 to develop strategies to make venues safe spaces.
- Victorian Music Crawl - Managed by Music Victoria, three tours took place across 2017-18, including a tour to the Mornington Peninsula and Gippsland in the second half of 2017 and a tour to Geelong, the Surf Coast and Warrnambool scheduled for next summer.
- Rockin’ the Laneways - With grants of up to \$25,000 available, Rockin’ the Laneways is designed to enliven public places; attract tourism and community activity, and ingrain our proud music heritage into the fabric of our cities, suburbs and regions. Grants are available to Victorian-based individuals, businesses and local councils, and require at least 25 % in co-funding.
- The Multicultural Festivals and Events (MFE) program encourages participation of the whole Victorian community in festivals and events to celebrate and embrace our vibrant multicultural diversity. This initiative is administered by the Department of Premier and Cabinet’s Multicultural Affairs and Social Cohesion (MASC) Division.
- The Lighthouse Award - Established in memory of Linda Gebar, The Lighthouse Award returns in 2017 with a \$5000 grant on offer from APRA AMCOS. The award is intended to support the professional development of a female manager or self-managed artist based in Victoria,
- Connect and Create - A partnership between the State Government and national music rights organisation APRA AMCOS, Connect and Create is a three-year program that will support local songwriters and composers to build sustainable careers and create music that will connect with audiences across the globe
- The Arts Centre Melbourne has also been turned into the music hall of fame with the launching of the Australian Music Vault, a new exhibition space dedicated to sharing the story of Australian contemporary music

The Victorian music industry has also released a [10 Point Plan](#) highlighting the steps it took to grow and nurture its live community.

## Western Australia

As part of the March 2017 election, the McGowan Labor Government tabled a series of commitments to the music industry including establishing the \$3million Creative Music Fund to support WA's music industry. The fund will enable musicians and those working in the industry to build links between the local music industry and the national and international industry.

These commitments include a list of policies in line with issues identified by the sector in NSW.

### [See Media Release](#)

- A McGowan Labor Government will make it easier for micro-festivals to take place across WA
- New level playing field by cutting red tape for established venues and opening up opportunities
- By cutting red tape to make it easier for established arts, culture and hospitality venues to stage micro-festivals, a McGowan Labor Government will support the expansion of their operations in an appropriate environment, over short periods of time.
- Under the policy it will be easier for existing venues to activate remote off premise bars in their local communities, allowing them to maximise their business potential.
- This initiative is designed to activate small spaces, such as laneways, streets, streetscapes, parks and open spaces with a diverse range of festival activity.
- Under the plan the Liquor Control Act will also be amended to add a new public interest assessment category, which allows for a venue's tourism, cultural and community benefits to be considered in license applications.
- New planning reforms will also support live music venues and streamline approval processes for live performances, with the Metropolitan Redevelopment Authority tasked to develop and manage additional live music venues, identifying government buildings which could be used as creative hubs/ case management in capital city council to ensure state government policy works

## Contemporary Music Organisations

All of the states and territories have contemporary music organisations:

Music ACT – [See website](#)

Music NT – [See website](#)

Music NSW – [See website](#)

QMusic – [See website](#)

Music SA – [See website](#)

Music TAS – [See website](#)

Music Victoria – [See website](#)

WAM - West Australian Music – [See website](#)

Collectively, the AMIN connects and represents the state and territory music industry associations of Australia;

This network creates a national platform for the representation and delivery of projects for the benefit of the Australian contemporary music industry.

[See AMIN website](#)

## National Table of Local Government Live Music Strategies – February 2018

VIC	City of Melbourne	Melbourne Music Strategy A strategy for supporting and growing the city's music industry 2014-17	<a href="#">Link to site</a>
	City of Yarra	Live Music Venues Grant 2016-17	<a href="#">Link to site</a>
	City of Port Phillip	Council is committed to working with live music venues and the community to achieve a balance that supports live music whilst protecting residential amenity.	<a href="#">Link to site</a>
	City of Ballarat	The City of Ballarat <a href="#">Live Music Strategic Plan</a> has a scope of 5 years. It defines the goals and objectives underpinning support of local and regional live music and identifies actions to strengthen development, appropriate to Council's role within the community.	<a href="#">Link to site</a>
	Mornington Shire	Mornington Peninsula Music	<a href="#">Link to site</a>
	City of Greater Geelong	Central Geelong Live Music Action Plan (LiveMAP)	<a href="#">Link to site</a>
NSW	City of Sydney	Live Music and Performance Strategy	<a href="#">Link to site</a>
	City of Wollongong	Wollongong City Council Live Music Action Plan	<a href="#">Link to site</a>
	Leichhardt (Inner West Council)	The final report of the Leichhardt and Marrickville Off Broadway live music reference group	<a href="#">Link to site</a>
	Marrickville (Inner West Council)	Council has made a commitment to support existing and new live music venues across its local government areas to ensure the future growth of live music venues and creative industries in the area.	<a href="#">Link to site</a>
	Tamworth		<a href="#">Link to event site</a>
	Parramatta	Live Music Program Coordinator / Live and Local / Amplify	<a href="#">Link to media release</a>
QLD	City of Brisbane	Live Program, Fortitude Valley Entertainment Precinct	<a href="#">Link to what's on</a> <a href="#">Link to site</a>
	Sunshine Coast	Consideration of the need for Special entertainment precincts to be identified in the Sunshine Coast Planning Scheme	<a href="#">Link to site</a>
	City of Gold Coast	The Live Music Taskforce was formed in November 2016 to address key regulatory issues affecting the live music sector on the Gold Coast.	<a href="#">Link to site</a>
SA	City of Adelaide	Adelaide City Council Live Music Action Plan 2014/2016	<a href="#">Link to plan</a>
	Norwood, Payneham and St Peters	City of Norwood Payneham & St Peters Live Music Policy	<a href="#">Link to site</a>

## Case Studies – Reducing Land Use Conflict and Live Music Precincts

### Urban Sounds Canberra

In 2015, MusicACT and the Live Music Office delivered a 25-point action plan to the ACT Government, [Cool Little Capital](#). Many of the actions from this plan were also included in the direction of the [Urban Sounds Discussion Paper](#), with the ACT Government undertaking a consultation period between 2 August and 23 September 2016.

The Urban Sounds Discussion Paper invited the community and related industries to consider how the planning framework could cater for everyday noise from restaurants, licensed premises, music venues and one-off events in mixed-use areas. Mixed-use areas refer to spaces where residences are located together with businesses, entertainment venues and services.

The discussion paper sought community input on how the ACT planning and regulatory framework could support a range of activities where there is potential for conflict between venues and residents such as events and music in mixed-use areas. The aim was to maintain a balance between the needs of different users.

The Urban Sounds Discussion Paper tabled the following 11 options to progress to enhance the planning framework:

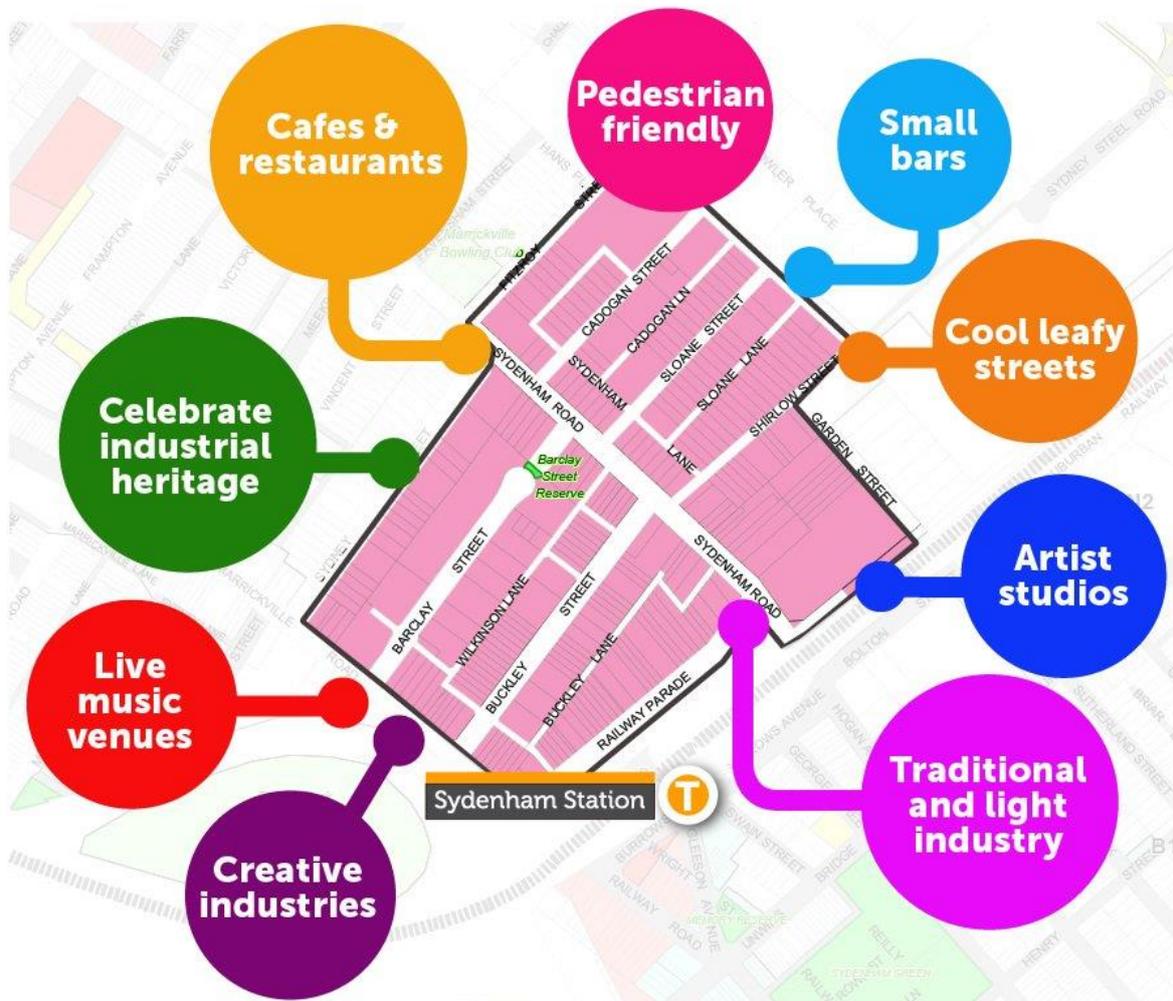
1. Establish special precincts in central locations that cater for activities and events with higher noise levels.
2. Establish entertainment only precincts/hubs that promote and facilitate events and entertainment.
3. Strengthen existing development controls to increase noise attenuation requirements for residential and commercial buildings.
4. Order of occupancy principles are not explicitly considered under current act legislation, however, the principles are applied through territory plan codes and the development assessment process.
5. Develop a targeted compliance and enforcement framework to ensure compliance with conditions of approval relating to noise management.
6. Amend noise standards within some commercial zones to enable more activities and events.
7. Publish information sheets and checklists making potential buyers and commercial operators aware of the increased noise permitted in mixed-use areas.
8. Consider reform to require information to be provided to buyers about noise before purchase of a property.
9. Work with the NCA to develop standard procedures for noise management plans across all mixed-use areas, including designated areas.
10. Strengthen liquor licences for potentially noisy premises.
11. Review the territory plan to achieve a more strategic approach to locating active frontages.

## Sydenham Creative Hub – NSW

Marrickville Council’s [Local Environment Plan 2011](#) recognises that the Marrickville area is the centre of Sydney’s independent arts scene and is home to many artists, studios, commercial art galleries, artist-run initiatives, theatres and festivals.

The LEP includes a ‘B7 Business Park’ zone that has the objective of providing for creative industries such as the arts, technology, production and design sectors. It is an employment zone that permits limited residential development in conjunction with employment uses at the ground floor.

# Sydenham Station Creative Hub



The 'IN2 Light Industrial' zone will allow for certain creative industries which take the form of business premises or office premises in the arts, technology, and production and design sectors.

The creative industries provided for include:

- audio-visual, media and digital media
- advertising
- craft, visual arts and Indigenous arts
- design
- film and television
- music
- publishing
- performing arts
- cultural heritage institutions

From the LEP -

#### **6.12 Business and office premises in certain zones**

(1) The objective of this clause is to promote certain types of business and office premises in Zone IN2 Light Industrial and Zone B7 Business Park.

(2) This clause applies to land in the following zones:

- (a) Zone IN2 Light Industrial,
- (b) Zone B7 Business Park.

(3) Development consent must not be granted to development for the purpose of business premises or office premises on land to which this clause applies unless the consent authority is satisfied that the development will be used for a creative purpose such as media, advertising, fine arts and craft, design, film and television, music, publishing, performing arts, cultural heritage institutions or other related purposes.

On 12/01/2017 the proposed Sydenham Station Creative Hub entertainment and employment precinct was approved at Gateway and with Relevant **Planning** Authority for implementation.  
<http://leptracking.planning.nsw.gov.au/PublicDetails.aspx?Id=27ACT>

## National Table of Live Music Regulation – February 2018

Category		ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Liquor Act	Objects Reference	-	Yes	-	-	Yes	-	Yes	Yes
	Dedicated All Ages	-	Yes	-	-	-	-	Yes	-
	Order of Occupancy	-	Yes	-	Yes	Yes	-	-	Yes
	Remove All Liquor License Entertainment Conditions	-	-	-	-	Yes	-	-	-
	BYO Venue Licence	-	-	-	-	TBC	-	-	Yes
National Construction Code	Assembly Building Variation	-	Yes	-	-	Yes	-	-	-
	Small Arts Venue	-	-	-	-	Yes	-	-	-
Development/ Planning	Small Venues Regulation	-	-	-	-	-	-	Yes	-
	Exempt Development	-	NYE/ Syd	-	TBC	Yes	-	Yes	-
	Complying Development	-	?	-	TBC GC	-	-	-	-
	Remove Exempt Conditions On DA's	-	-	-	-	Adelaide	-	-	-
	Agent-of-Change	-	Syd TBC	-	-	Adelaide	-	Yes	-
	Primary Land Use	-	--	-	Yes	-	-	-	-
	Zoning Reference	-	IWC	-	-	-	-	-	-
Health	Occupancy	-	-	-	-	-	Yes	-	-
Sound	Variation	EA	Luna Park	-	SEP	-	-	SEPP	-
	Acoustic Grants	-	Yes	-	-	Yes	-	Yes	SASP
	Mapping	-	Yes	-	Yes	Yes	-	Yes	-
Support	State Case Management Position	-	-	-	-	Yes	-	-	-
	Dedicated Live Music Council Position	-	Sydney Parra	-	-	Adel	-	Melb Geel	-
	Local Government Case Management	-	Sydney Woll	-	-	Adelaide	-	-	-
	Licensees Forum	-	-	-	-	-	-	Melb	-
Data / Research	Live Music Census	-	Wollongong	Yes	-	Yes	-	Yes	-
Collaborative Marketing		-	NTE Plan	-	Yes	Yes	-	Yes	-
Musicians Loading		-	-	-	-	Yes	-	Yes	-

## Appendix 1 - About the Inquiry

This inquiry was established on 23 November 2017 to inquire into and report on the music and arts economy in New South Wales.

The [website link is here](#)

The [media release here](#)

The [link to lodge a submission is here](#)

Input was being sought on a range of issues in line with the [terms of reference](#) tabled below:

### LEGISLATIVE COUNCIL PORTFOLIO COMMITTEE NO. 6 – PLANNING AND ENVIRONMENT

That Portfolio Committee No. 6 - Planning and Environment inquire into and report on the music and arts economy in New South Wales, including regional New South Wales, and in particular:

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

## Appendix 2 – Supplementary Files

1. Arts Venues and Assembly Buildings - Proposal for Change 2019 National Construction Code
2. Australian Building Codes Board response to Live Music Office Arts Venues Proposal For Change
3. South Australia FINAL Streamlining Live Music Regulation Report
4. SA Development (Low Impact Entertainment) Variation Regulations 2017
5. SA Assembly and Small Arts Venue Variation