

Supplementary
Submission
No 283a

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

Organisation: Live Music Office

Date Received: 25 October 2018



24 October 2018

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

RE: Supplementary Submission – NSW Parliamentary Inquiry into the Music and Arts Economy

Further to our previous submission, from responses to recent questions on notice from various agencies with regard to both research relating to music and violence as well as to definitions of ‘live entertainment’, the Live Music Office would like to provide these additional associated references which may be of use to the Committee, to augment the available sources informing these considerations.

Firstly to research investigating music, entertainment and violence. From an industry perspective it is recognised that there hasn’t been a great deal of work done in this area in Australia, however, the following additional references may be of relevance.

- In 2015 Dr Anne Fox tabled her report for Lion Nathan, [*Understanding behaviour in the Australian and New Zealand night-time economies.*](#)
Listening to live music or stand-up comedy, playing darts, chess, or other bar room games, karaoke, competitions and tournaments, all these can serve to distract drinkers from frustration and unite them as a group. Many young people feel they have to get drunk and then create their own entertainment. What is needed in drinking venues is a de-emphasis on the consumption of alcohol for its own sake and a refocus on the entertainment and group conviviality.
We need to encourage the establishment of night-time venues where alcohol is ancillary to the entertainment, not the centre of it.
- Allen Consulting Report - Alcohol Related Harm & The Operation Of Licensed Premises
https://assets.justice.vic.gov.au/vcglr/resources/67906f13-93a3-417a-a4d4-a3f79d8d9c5d/report_alcoholharmstudy.pdf
- Deloitte Report on Economic, Social & Cultural Contribution of Live Music 2011
http://musicvictoria.com.au/assets/Documents/DAE_Live_music_report_2011.pdf
(Page 51 specifically addresses patron behaviour)
- Violence In Public Places: Explanations & Solutions (commissioned by Victoria Police)
http://www.richardeckersley.com.au/attachments/A21_public_violence.pdf
(Page 12 references lockouts)

Looking to defining 'live entertainment', the associated Liquor and Gaming NSW fact sheet outlines the application requirements for the half-hour live entertainment exemption to 1.30am lock out and 3.00am last drinks, where:

Live entertainment includes:

- *events where people are engaged to perform live or pre-recorded music, and*
- *other performances where performers (or at least some of them) are present in person – for example, theatre, musicals, dance, comedy and variety performances*

From a NSW industry perspective there have been related discussions in 2018, from which there was broad consensus for the following:

'Live performance' was defined as other forms of performance including, but not limited to, theatre, dance, cabaret, drag, stand-up comedy, spoken-word events, performance art, live music and live mixing of recorded music.

Venues need to be able to cater to diverse types of entertainment and audiences, where collaborations across art-forms aren't restricted, and importantly, where electronic music and the live mixing of recorded music is very much recognised and included.

Other definitions for both 'live entertainment', 'entertainment' and 'entertainment venue' can be found within Australia and internationally, including the following examples;

South Australia

[LIQUOR LICENSING ACT 1997 – SECT 4](#)

4—Interpretation

"Live entertainment" means—

- (a) a dance or other similar 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;

NSW

[NSW LIQUOR ACT 2007 – SECT 4](#)

Definitions

"public entertainment venue" means any of the following:

- (a) a cinema,
- (b) a theatre,
- (c) 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.

Western Australia

[LIQUOR CONTROL ACT 1988 – SECT 42](#)

42 . Nightclub licence, effect and conditions of

- (1) Subject to this Act the licensee of a nightclub licence is, during permitted hours, authorised to sell liquor on the licensed premises, for consumption on the licensed premises only, ancillary to continuous entertainment provided live by one or more artists present in person performing there

or by way of recorded music presented personally by a person employed or engaged by the licensee to do so.

(2) For the purpose of determining whether or not entertainment is continuous, no account shall be taken of reasonable intervals between acts, or between the performances of artists, so long as substantial compliance with the requirement for continuity is observed.

(3) Every nightclub licence is subject to the condition that liquor shall not be permitted to be consumed on the licensed premises except at a time when live entertainment is being provided there and liquor may be lawfully sold under the licence, unless an extended trading permit applies.

And looking to international references,

UK Licensing Act 2003

[SCHEDULE 1 Provision of regulated entertainment](#)

Entertainment

2(1) The descriptions of entertainment are—

- (a) a performance of a play,
 - (b) an exhibition of a film,
 - (c) an indoor sporting event,
 - (d) a boxing or wrestling entertainment,
 - (e) a performance of live music,
 - (f) any playing of recorded music,
 - (g) a performance of dance,
 - (h) entertainment of a similar description to that falling within paragraph (e), (f) or (g), where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.
- (2) Any reference in sub-paragraph (1) to an audience includes a reference to spectators.
- (3) This paragraph is subject to Part 3 of this Schedule (interpretation).

Entertainment facilities

- 3(1) In this Schedule, “entertainment facilities” means facilities for enabling persons to take part in entertainment of a description falling within sub-paragraph (2) for the purpose, or for purposes which include the purpose, of being entertained.
- (2) The descriptions of entertainment are—
- (a) making music,
 - (b) dancing,
 - (c) entertainment of a similar description to that falling within paragraph (a) or (b).

Another very important definition guides entertainment land use in NSW, with the Dictionary for the Standard Instrument - Principal Local Environmental Plans in NSW including the following;

Entertainment facility means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.

A good example of the application of this is the Oxford Art Factory conditions of consent in the City of Sydney Local Government Area, with an approval referencing both the Standard Instrument definition as well as further bespoke conditions for the operational use of the premises;

Your development consent [D/2006/645/G](#) is to permit an entertainment venue which is defined under the relevant Environmental Planning Instrument as an entertainment facility means a

theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.

The consent contains specific detailed conditions as to how the premises are to operate under condition 1(c) detailed below.

After 9.00pm until close at least 2 different forms of entertainment (excluding stationary art exhibitions) shall take place such as live music, theatre, cabaret, burlesque, vaudeville, dance, comedy, spoken word, poetry recitals, art house cinema, art exhibitions, fashion shows, special events, functions and DJs. For the purpose of clarity, this condition does not require the provision of 2 continuous and simultaneous forms of entertainment between 9.00pm and closing. The premises must not operate solely as a nightclub and shall be a venue which has a market orientation towards art, live performances, and supporting cultural events and endeavours.

I also note that condition 9 of development consent D/2006/645/G requires compliance with a Plan of Management. Clause 9 of the Plan of Management states as follows.

The premises must not operate solely as a nightclub and shall be a venue which has a market orientation toward art, live performances, and supporting cultural events and endeavours.

Once again, The Live Music Office appreciates the attention of the Committee to these matters, and should you require any further information or wish to discuss any of the issues raised in this submission please be in touch.

Yours Sincerely

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