

Submission  
No 44

**INQUIRY INTO LIQUOR AMENDMENT (MUSIC  
FESTIVALS) REGULATION 2019 AND GAMING AND  
LIQUOR ADMINISTRATION AMENDMENT (MUSIC  
FESTIVALS) REGULATION 2019**

**Organisation:** NSW Government

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# **NSW Government Submission to the Regulation Committee Inquiry into Music Festival Regulations**

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July 2019



## Contents

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<b>1. Introduction</b>	<b>3</b>
<b>2. Economic Value to NSW of Music Festivals</b>	<b>3</b>
<b>3. Costs to Government of Ensuring Safety at Music Festivals</b>	<b>4</b>
NSW Health	4
NSW Police Force	6
<b>4. Background to the Regulations: drug-related deaths and the expert panel</b>	<b>7</b>
Defcon.1	7
Health Impacts of Music Festivals	7
<b>5. The Expert Panel Report and Recommendations</b>	<b>7</b>
<b>6. New Regulatory Scheme</b>	<b>8</b>
Consultation with Industry	8
Application of the licensing system to higher risk festivals	9
Safety Management Plans (SMP)	9
Regulatory Burden	10
<b>7. Conclusion</b>	<b>10</b>

## 1. Introduction

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The NSW Government welcomes the invitation to make a submission to the Regulation Committee's inquiry into the *Liquor Amendment (Music Festivals) Regulation 2019* and *Gaming and Liquor Administration Amendment (Music Festivals) Regulation 2019* ('the Regulations'). The NSW Government is committed to a vibrant and safe music festival industry, and the efficient and effective operation of the current licensing scheme.

Music festivals are an important component of the social, cultural and economic fabric of NSW. Following a number of drug-related deaths at music festivals in NSW, the Government implemented a risk-based licensing scheme under the Regulations.

The majority of music festivals are not impacted by the new music festival licence scheme. Of the over 80 music festivals that operate in NSW every year, only 11 have been required to apply for a music festival licence under the new scheme.

Those operating under a music festival licence are required to have appropriate plans in place to address the risks associated with their event, including ensuring appropriate medical support is in place, and working closely with NSW Government agencies to ensure their patrons have an enjoyable and safe time at the music festival.

Most operators will already have well developed plans in place through the development consent process. The new music festival licensing process will therefore focus on giving operators the opportunity to draw on expert advice on how to improve their medical, drug and alcohol management plans for their event. Operators are required to pay a \$650 licence fee – the same fee as the previous scheme but with more comprehensive support from Government clinical, harm reduction and public safety experts.

Festivals operating under the new music festival licence can give patrons, their families, and the broader community comfort that the operator has put in place appropriate plans to address the risks of their event.

The NSW Government is committed to adopting an evidence and risk based response to the significant increase in drug related illnesses, hospitalisations and deaths connected with music festivals. In this regard, the NSW Government will consider any findings and recommendations that may arise from the Coronial inquest into recent music festival related deaths that commenced this year.

## 2. Economic Value to NSW of Music Festivals

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More than 80 music festivals are held in NSW each year. Music festivals draw in hundreds of thousands of patrons from around NSW, inter-state and international visitors. Music festivals make a significant economic contribution to the NSW economy as a whole, as well as some regional areas.

The University of Tasmania estimated that the live music sector contributed \$15.7 billion of value to the Australian community in 2014 and supported 65,000 jobs.<sup>1</sup> NSW was found to be the largest contributor at \$3.6 billion and 23,207 jobs providing commercial, individual and civic benefits in the process.<sup>2</sup>

Destination NSW invests in the events sector through the Regional Flagship Events Program (RFEP) and major event investment. Between 2017 and June 2019, Destination NSW invested a total of \$1,066,102 through the RFEP, and since 2011 has secured or retained a total of 780 events across the state which will generate \$3.5 billion in visitor spend for the NSW economy.

### 3. Costs to Government of Ensuring Safety at Music Festivals

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Despite the economic benefits, there are many costs incurred to Government in supporting music festivals.

#### NSW Health

NSW Health has invested significant resources to help keep people safe at music festivals. In September 2018, the Ministry of Health created a team of five people to support the music festival response. NSW Health has also provided significant in-kind contribution including expert clinical and toxicology advice, logistics support, and emergency management response support and resources since September 2018. This includes the NSW Poisons Information Centre, the NSW Ambulance event planning team staff, State Health Services Functional Area Coordinator and Health Emergency Management Unit, local health district disaster managers and health services functional area coordinators, and the State reference laboratory for forensic toxicology – the Forensic and Analytical Science Service.

During the peak of the 2018-19 music festival season, daily meetings were held within the NSW Ministry of Health to review issues identified at events and plan for upcoming events. In addition to these regular meetings, risk assessment, pre-brief and debrief meetings were held for events considered to have a substantial risk of drug related harms. This work continues through consultation with festival promoters and attendees to strengthen the clinical guidelines, the design of harm reduction support services, and a new set of harm reduction messaging resources.

In addition to policy and planning support, NSW Health invested over \$1.7 million implementing measures to reduce drug related harm during the 2018-19 music festival season. These included:

- enhancing social marketing and harm reduction messaging targeted to music festival patrons;
- strengthening peer support and education services;
- developing harm reduction guidelines for event organisers;

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<sup>1</sup> Australasian Performing Right Association (APRA AMCOS), *The Economic and Cultural Value of Live Music in Australia 2014*: <http://apraamcos.com.au/broadcast/LiveMusic-report-FINAL.pdf>

<sup>2</sup> *ibid*

- developing and implementing strategies to make the music festival environment safer; and
- developing clinical guidance and enhancing the onsite response to serious medical illness at events.

The components of the costs were as follows:

- \$885,929 for peer-based harm reduction services
- \$627,244 for harm reduction messages and social marketing
- \$28,985 for chilled water and other consumables

For the period 15 September to 31 May 2019, NSW Health pre-deployed 10 medical retrieval teams and 8 local health district response teams to 10 events.

The cost of these planned medical team deployments was as follows:

- \$84,659 for pre-deployed medical retrieval teams
- \$120,547 for pre-deployed health response teams

Pre-deployment of NSW Ambulance resources to an event is charged on a user pays basis, as outlined online.<sup>3</sup>

Note: pre-event deployment charges do not include the cost of treating or transporting a patient, if required. Treatment and transport costs are charged separately to the patient. In NSW, residents who use emergency ambulance services are charged 51 per cent of the actual cost and receive a State Government subsidy of 49 per cent for the remainder.

For the 28 music festival events examined by the Ministry of Health to understand harms and impacts, pre-deployed ambulance resources (user pays) included:

- 55 ambulance crews
- 25 forward commanders
- 19 ambulance liaison officers.

The cost of an unplanned deployment of a retrieval team or Ambulance crew in response to a request to attend is borne by the NSW Government and the patient in the same way as other Ambulance call outs. These resources were rostered to duty and therefore did not incur additional cost to the government.

The additional cost of unplanned Ambulance deployments to any particular event is the opportunity cost of committing that Ambulance crew(s) and/or retrieval team to respond, and therefore

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<sup>3</sup> [http://www.ambulance.nsw.gov.au/Media/docs/User%20Charges\\_SOP\\_250116\\_V7-9c87b65d-8b8c-4438-9169-13bde1178b2e-0.pdf](http://www.ambulance.nsw.gov.au/Media/docs/User%20Charges_SOP_250116_V7-9c87b65d-8b8c-4438-9169-13bde1178b2e-0.pdf)

reducing the NSW Ambulance service’s ability to respond to other requests for assistance from the community. This may result in delayed response times for other community emergencies.

NSW Ambulance resources deployed in response to unplanned demand at 28 selected music festivals for the period 15 September to 31 May 2019 included:

- 111 ambulance crews
- 5 forward commanders
- 3 helicopter retrieval teams
- 9 road retrieval teams.

### NSW Police Force

NSW Police Force (NSWPF) provides most policing services free of charge to the general community but there are times when some services go beyond these responsibilities and clients are charged fees for the benefit of the services or goods provided. This is frequently the case with music festivals. The NSWPF does not make a surplus from user pays activities. Fees for user pays services are generally set to recover full cost.

The aim of the user pays charges is to achieve an efficient and equitable use of public resources by ensuring that the cost of providing these services is passed on to those who derive commercial or other benefits from them. The event organiser is not charged for overhead costs that would have been incurred in running the non-commercial activities of the NSWPF. The level of user pays police resources is determined in consultation with the event organiser, on a risk-assessed basis. The level of resources needed for a particular event is signed off at a senior level within NSWPF.

Costs are also incurred by NSWPF outside of the ‘user pays’ system, and have not been significantly impacted or altered by the introduction of the regulations. A sample of the costs incurred to NSWPF for events is as follows:

<b>Event</b>	<b>Total number of rostered officers</b>	<b>Minimum Cost incurred by the NSWPF</b>
Hidden (2 March 19)	66	\$28,544.54
Transmission (16 March 19)	82	\$31,861.78
Midnight Mafia (11 May 19)	108	\$39,079.50
Brennan Heath (15 June 19)	76	\$30,522.00

## 4. Background to the Regulations: drug-related deaths and the expert panel

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### Defqon.1

At the Defqon.1 music festival in September 2018, a 23-year-old man and a 21-year-old woman died as a result of illegal drug consumption. Around 30,000 people attended the festival, which was held at the Sydney International Regatta Centre. In addition to the deaths, seven people were admitted to hospital for drug-related illness. Three of the seven people were admitted to intensive care units.

The NSW Police Force conducted a number of drug searches. A range of illicit drugs were seized, including MDMA/ecstasy (3,4-methylenedioxymethamphetamine), cocaine and GHB (gamma hydroxybutyrate). In total 70 people were charged with drug-related offences following the event.

### Health Impacts of Music Festivals

Drug-related harm stemming from 28 music festivals between 15 September 2018 and 31 May 2019, is summarised below:

- 5 deaths
- 29 pre-hospital intubations and 5 hospital intubations
- 26 intensive care admissions
- 23 additional hospital admissions.

The information in relation to hospital admissions relates largely to patients who were transported to hospital directly from the event by ambulance, and is therefore likely to be an underestimate of music festival-related hospital admissions. Music festival patrons may have presented to hospital without requiring ambulance transport, or been transported to hospital by ambulance sometime after they had left the event.

Of the 11 music festivals held between 2015 and 2016 on land managed by the then Office of Environment and Heritage:

- 10.4% of the 770 medical presentations were due to illicit drug use
- 44% of the 16 ambulance transfers were drug related

For the 28 music festivals between 15 September 2018 and 31 May 2019 for which data is available:

- 212 festival patrons were transported from a music festival by NSW Ambulance to hospital. Of these, 130 transports (61.3%) were suspected to be drug or alcohol-related.

## 5. The Expert Panel Report and Recommendations

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In September 2018, Premier Gladys Berejiklian convened an Expert Panel to advise the NSW Government on how to keep people safe at music festivals. The panel, made up of Police Commissioner Mick Fuller APM, NSW Chief Health Officer Dr Kerry Chant and Chair of the Independent Liquor & Gaming Authority Philip Crawford, completed their review and made a number of recommendations, which the NSW Government accepted in principle.



The recommendations included:

- introducing a new licensing regime to improve music festival regulation
- providing more support for festival health workers
- educating festival-goers on the dangers of illegal drug use

On 13 November 2018 the Government introduced the *Community Protection Legislation Amendment Bill 2018* into Parliament to implement the Expert Panel's recommendations. The Bill, among other things, amended the Liquor Act 2007 to create two new regulation making powers that allow:

- for licence types to be created by regulation, and
- for the regulation to prescribe that a particular type of licence is not to be granted if the Independent Liquor & Gaming Authority is of the opinion that the sale or supply of liquor under the licence would more appropriately be provided under another type of licence.

The Bill was passed by Parliament on 21 November 2018, and was followed by the implementation of the Regulations under consideration by the Committee.

Concurrent with these amendments to the Liquor Act 2007, the Department of Premier and Cabinet convened an inter-departmental working group to progress the Government's response to the Expert Panel report. The working group included representatives from Liquor & Gaming NSW, NSW Health, NSW Police Force and the Office of Local Government.

## 6. New Regulatory Scheme

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The NSW Government is committed to adopting an evidence and risk based response to the significant increase in drug related illnesses, hospitalisations and deaths connected with music festivals. The new licensing scheme helps to mitigate the social and economic costs while continuing to realise the associated benefits to local communities and the broader economy.

### Consultation with Industry

Following the Government's decision to strengthen the licensing system, a consultation process was initiated. Between the 28 November 2018 and 6 February 2019 the Government held several stakeholder forums to engage with industry on the development of the proposed new music festival licence. As a result of feedback provided by industry representatives at the stakeholder forums, and the meetings between industry and Government representatives, the NSW Government made changes to the proposed regulatory approach to address concerns raised by stakeholders, including:

- removing a risk assessment matrix from the draft Guidelines for Music Festival Event Organisers: Music Festival Harm Reduction,
- removing all lower risk music festivals from the new music festival licensing scheme,
- only requiring higher risk music festivals to apply for a music festival licence if directed to do so by the Independent Liquor & Gaming Authority,

- giving applicants the opportunity to make submissions before they are required to apply for a music festival licence.
- reducing liquor sales restrictions,
- calculating attendees on a daily basis rather than across the course of the event and only counting ticketed attendees, and
- removing licensing fees for all music festivals applying for a Limited Licence – Special Events liquor licence that are not required to apply for a music festival licence.

#### Application of the licensing system to higher risk festivals

The new music festival licence implemented by the Regulations is intended to give targeted support to higher risk music festivals to run safer events, without impacting lower risk festivals. It refined existing processes to ensure operators of higher risk festivals put in place appropriate plans to deal with the specific risks of their event.

Under the Regulations, a festival is only required to apply for a music festival licence where the Independent Liquor & Gaming Authority (the Authority) considers that the event would be more appropriately licensed by a music festival licence than another type of liquor licence. In reaching this determination, the Authority may have regard to:

- any advice from the Health Secretary or the Commissioner of Police that the health risks of the music festival would be more appropriately addressed by a music festival licence than another type of licence, and
- whether a death has occurred in the State on a previous occasion at the music festival or in connection with the music festival in the last 3 years, and
- any submission to the Authority that may have been made by a licensee or an applicant for a licence as to the reasons the licensee or applicant should sell or supply liquor under a licence that is not a music festival licence.

This limits the application of the music festival licence to those events that the Authority considers to have a higher risk of having an adverse drug-related incident. The Authority may also have regard to advice from other agencies, such as the NSW Rural Fire Service.

#### Safety Management Plans (SMP)

Applicants for a music festival licence must prepare a SMP, which is then reviewed by the relevant NSW Government agencies. The agencies provide any comments to Liquor & Gaming NSW which will consolidate all comments and provide to the applicant for their consideration. This process is intended to allow the applicant to make changes to their SMP having regard to the expert advice provided by the relevant agencies.

The applicant will be provided the opportunity to respond to any comments from agencies, and will be allowed to provide alternate solutions to issues identified by the agency experts.

The Authority may grant a music festival licence only if the Authority is satisfied from the assessment, and any resulting changes made to the SMP or application in response to comments by the Authority, that the risks associated with the music festival and the premises that are the subject of the application are suitably addressed.

## Regulatory Burden

On 23 February 2019, the then Minister for Racing, the Hon. Paul Toole MP, identified that NSW Health and NSW Police had provided advice to Government that 14 music festivals should be referred to the Authority for consideration of whether these events should be subject to the new music festival licence.

On 15 March 2019, the Independent Liquor & Gaming Authority wrote to these festival operators to provide copies of the relevant advice from NSW Health and NSW Police, and provide them with information on how they could make a submission responding to the advice of NSW Health and NSW Police to the Authority. All festival operators were provided 21 days to make a written submission, with the Authority holding a standalone music festivals meeting on 10 April 2019 to allow festival operators to also make oral submissions.

Of the 14 music festivals that were notified by the Authority, 13 made written submissions and 12 made oral submissions in person.

On 23 April 2019, the Authority determined that 11 music festivals were required to apply for a music festival licence as the risks associated with their event would be more appropriately dealt with under a music festival licence than another type of licence.

Two music festivals were determined not to need to apply for a music festival licence as the Authority considered that these events could be appropriately managed under an existing licence. As at 25 June 2019, the final music festival identified by NSW Health and NSW Police, has yet to have its licensing position determined by the Authority.

## 7. Conclusion

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Of the over 80 music festivals that operate in NSW every year, only 11 have been required to apply for a music festival licence under the new scheme. These events operate in a higher risk environment due to the nature of their business model – running larger music festivals targeted at a younger demographic which include a focus on electronic dance music. This operating environment increases the risk that prohibited substances will be present and will cause a significant, adverse effect, including a drug overdose resulting in hospitalisation or death.

The Government has adopted a risk-based approach to interacting with music festival operators, and has provided all operators with access to a range of additional sources of advice and support. However, as some of the festivals that have been required by the Authority to apply for a music festival licence continue to operate in this inherently higher risk environment, ongoing supervision and support for this small segment of the industry is considered necessary for the foreseeable future.

The new music festival licence does not solve all the issues surrounding drug use at music festivals, but importantly it provides an opportunity for industry and Government to work together to make music festivals safer.