

# Ten Policy Initiatives to build Live Music, Performance, and the Night-time Economy in NSW in 2023

## INTRODUCTION

**With NSW going to the polls on 25 March now is a good time to give an overview of the changing landscape of policies and regulations impacting live music and night-time economy activity in the state and provide a measure of their success.**

The following paper looks at a series of issues for the broader music industry and provides analysis of ten key policy priorities developed or supported by the Live Music Office over the last decade to arrest the decline of live music and cultural activity in the state.

These policy priorities have been documented by the Live Music Office during a series of Parliamentary Inquiries charged with making recommendations on how to reduce over-regulation and unnecessary red-tape around live music and cultural activity in NSW.

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## 1. Recognising 2020 Regulatory Reforms

The 2020 Regulatory Reforms were a momentous occasion for the music industry and removed decades of red tape. The changes were an omnibus bill that transformed cultural activity and included amendments to liquor licensing, planning and local government legislation with provisions to:

- Establish cultural and entertainment precincts to foster live music and cultural activity.
- Remove entertainment conditions in venues including the type of music, instruments or number of musicians.
- Incentivise live music and cultural activity through license discounts and extended trading for venues including participating venues in the NSW Government Great Southern Nights program.
- Integrated licensing and planning processes and the removal of restrictions on mirror-balls and dancing and the elimination of entertainment prohibitions on restaurants and small bars.
- A streamlined process to enable the creation of small bars and live music and small arts spaces.
- The power for local councils to remove entertainment bans with new planning rules prohibiting councils from regulating music genres, types of instruments, and numbers of performers.
- Low impact live entertainment to be classified as exempt development under planning regulations.

Further amendments achieved in 2021 include:

- An additional 60 minutes trading for liquor licences at dedicated live music and performance venues
- The ability for musicians being able to use loading zones for the transportation of equipment and instruments.
- The removal of 'high-risk' terminology in reference to music festivals.

The NSW Liquor Act under s.163A requires that The Minister must, for financial years 2021-2022 to 2023-2024, give a report to the Presiding Officer of each House of Parliament on implementation of Liquor Amendment (Night-time Economy) Act 2020 by 1 November following the end of each financial year concerned<sup>1</sup>. The delivery of this report provides a clear set of metrics on the deployment of the regulations and support for venues,

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<sup>1</sup> <https://www.parliament.nsw.gov.au/lc/tables/papers/Pages/tables-paper-details.aspx?pk=83217&houseCode=lc>

The following table reflects the first report card to the NSW Parliament. This report is made by the Minister for Hospitality and Racing as required under s.163A(1) of the Liquor Act 2007.

[The report can be found here on the NSW Parliament website](#)

Regulations	2021/2022		Notes
	Number	Location	
Live music and live performance events conducted under Part 12	“several times”	City of Sydney only	Temporary measures during the period of the COVID-19 pandemic to allow local councils to encourage the use of outdoor space for outdoor dining and performance to assist with social distancing measures.
Extended hours for dedicated live music and performance venues	3	City of Sydney 2/Randwick 1	Introduced to incentivise live music / support venues providing regular employment for musicians across NSW.
Dedicated live music and performance venue 80% fee reductions	196	196	Introduced to incentivise live music / support venues providing regular employment for musicians across NSW.
Special Entertainment Precincts	1	Enmore Rd SEP Inner West Council	Inner West Council, Century Venues and the Live Music Office have led the Sept 22 Enmore SEP
Small live music and performance venues	0	0	Inner West Council and Live Music Office actioning currently in IWC LGA and Regional NSW
Exempt development for low impact entertainment	5 buildings reported	City of Sydney/Regional NSW	Live Music Office and Sydney Fringe provided data only, No government agency data
The use of loading zones by musicians	0	0	No government agency data
Modify a development consent for licensed premises by declaring that certain live entertainment conditions do not apply	0	0	No government agency data
The temporary use of outdoor spaces under section 166	0 actual gigs	City of Sydney only	Report identifies 40 approvals to extend boundaries in NSW however 0 gigs are provided. City of Sydney Only
Interim small bar authorisation	4	Not tabled	No government agency location data provided

## **2. Night-time Economy Legislation - Activation Investment and Delivery**

The numbers reflected in the report tabled in Parliament in November 2022 show there is still an incredible amount to do to foster a sustainable night-time economy that has live music and cultural activity at the centre.

We have a great opportunity to match investment with the better regulation reforms from the Liquor Amendment (Night-time Economy) Act 2020 that is not being delivered. The Live Music Office urges government to expedite the roll-out of the new regulations to support live music and cultural activity and businesses.

These should involve:

- Ensure every live music and performance venue is registered on the Liquor and Gaming NSW list, and granted extended trading, fee concessions and communicate musician loading zones.
- Promote the small live music or arts venue regulations to foster lots of different small performance spaces in disused or vacant retail building stock across New South Wales.
- Promote exempt development for low impact live music and performance to activate existing retail businesses.
- Communicate how the coordinated design of the legislation should be working as intended.

## **3. Entertainment Precincts and Managing Land Use Conflict**

There are currently three distinct and separate approaches within Greater Sydney to support entertainment precincts and manage land use conflict for night economy businesses.

These are:

### **1. Special Entertainment Precincts (Inner West Council and NSW DPIE)**

Informed by the QLD approach, enabled by the Liquor Amendment (Night-time Economy) Act 2020, and supported by NSW Department of Planning and Environment alongside Liquor and Gaming NSW. The first Special Entertainment Precinct trial is now well underway on Enmore Rd in the Inner West<sup>2</sup> from the motion passed by Council in May 2021 developed in partnership with the Live Music Office and

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<sup>2</sup> [Enmore Special Entertainment Precinct | Your Say Inner West \(nsw.gov.au\)](https://www.nsw.gov.au/your-say/inner-west)

Century Venues<sup>3</sup>. The Special Entertainment Precinct in Fortitude Valley, Queensland has seen a 40 per cent increase in live music venues since its inception.

## **2. Agent of Change (City of Sydney)**

The City of Sydney Open and Creative City Planning Reforms policy intent to provide a clear and fair approach to managing entertainment sound from venues by applying the ‘agent of change’ approach<sup>4</sup>. Agent of Change protects existing venues from any new residential development, placing the onus for sound attenuation on a developer. Agent Of Change does not foster the development of new live music venues in areas where they have been lost.

## **3. Purple Flag Precincts and the Neon Grid (Investment NSW)**

Promoted by Investment NSW and the Office of the 24hr Economy Commissioner<sup>5</sup> for application in NSW through the Local Area Acceleration Toolkit for Councils, this approach follows the UK’s Purple Flag program aimed to offer a “diverse, safe, and enjoyable night out”. Purple Flag eligible districts with strong, clear identities are candidates for identification through the Neon Grid<sup>6</sup>. The Neon Grid is a series of connected night-time hubs that stand to benefit from marketing and promotion by government agencies. These precincts don’t deal with regulations around supporting existing live music and cultural infrastructure or fostering new cultural activity.

With these three approaches it is vital the NSW Government sets out a strategy to ensure that business and the community have a better understanding of how these three approaches are currently working. The government also needs to articulate a vision of what outcomes it wants for local areas and how these discrete methodologies are utilised to ensure a sustainable and vibrant night-time economy.

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<sup>3</sup> Motion: (Byrne/York) Making the Inner West the Live Music and Performance Capital of Australia Again

[https://innerwest.infocouncil.biz/Open/2021/05/C\\_24052021\\_MIN\\_3894\\_EXTRA.htm#PDF2\\_ReportName\\_60017](https://innerwest.infocouncil.biz/Open/2021/05/C_24052021_MIN_3894_EXTRA.htm#PDF2_ReportName_60017)

<sup>4</sup> [An Open and Creative City: planning for culture and the night-time economy - City of Sydney \(nsw.gov.au\)](#)

<sup>5</sup> [Purple Flag - Investment NSW](#)

<sup>6</sup> [Greater Sydney’s 24-hour economy - Investment NSW](#)

#### 4. Investment and Policy Priorities

The delivery of targeted grant programs for night-time economy development from Investment NSW has also been a cause for further deliberation by the live music and performance sector, particularly with regards to:

- a) Any alignment or otherwise with the Liquor Amendment (Night-time Economy) Act 2020,
- b) Supporting venues through Covid spikes, and
- c) Where certain local government areas have been ineligible for grants due to their location.

An example including all three of these concerns is the CBD activation grants from Investment NSW where funding of between \$250,000 and \$1 million was available to provide targeted support for events and activation activities. The grants disadvantaged the entertainment sector with an application period between 17 December 2021 and 14 January 2022<sup>7</sup>, coinciding with peak season for the entertainment and hospitality sectors, and in the midst of a major COVID outbreak where venues had no choice but to cease operating.

The program also excluded key centres of existing live music and cultural business in areas such as the Inner West LGA<sup>8</sup>.

Data provided in a Sept/Oct 2019 Inner West Live Music and Performance Census<sup>9</sup> from the Live Music Office and Sydney Fringe Festival and commissioned by Inner West Council demonstrated that there were over 80 venues providing hundreds of gigs and performances each week in the Inner West immediately prior to the pandemic.

The Live Music Office has advocated for an alternative approach that includes the establishment of a separate NSW Music Development Office as was introduced in South Australia and later in Victoria. Grants could then be targeted to Liquor Amendment (Night-time Economy) Act 2020 components, where live music and potentially other performing arts can be separated from other competing priorities and ensure there is buy-in from the music industry.

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<sup>7</sup> [New expressions of interest in \\$50 million fund to drive CBD's revitalisation - Investment NSW](#)

<sup>8</sup> [CBDs Revitalisation Program - Investment NSW](#)

<sup>9</sup> [Is Inner West the NSW Live Music Capital - Live Music Office](#)

## 5. Music Development Office

In 2018 the Live Music Office submission to the Parliamentary Inquiry into the Music and Arts Economy in New South Wales laid out a comprehensive policy platform for music industry development in the state<sup>10</sup>, including much of the better regulation reforms delivered through night-time economy legislation, and the case for a Music Development Office and a Music Industry Hub amongst other industry development initiatives.

A Music Development Office or equivalent would dedicate roles in government agencies to the music sector. These are in place in both South Australia and Victoria.

The South Australian Government has set up a 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<sup>11</sup>

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.

Establishing a Music Development Office was a recommendation from the 2018 Music and Arts Economy Parliamentary Inquiry<sup>12</sup>.

## 6. 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<sup>13</sup>

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<sup>10</sup> [0283 Live Music Office.pdf \(nsw.gov.au\)](#)

<sup>11</sup> [Music Development Office \(SA\) | About us \(mdo.sa.gov.au\)](#)

<sup>12</sup> [https://www.parliament.nsw.gov.au/lcdocs/inquiries/2471/Final report website.pdf](https://www.parliament.nsw.gov.au/lcdocs/inquiries/2471/Final%20report%20website.pdf)

<sup>13</sup> [Creative Industries | St Paul's Creative Centre](#)

*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.*

Establishing a Music Industry Hub was a recommendation from the 2018 Music and Arts Economy Parliamentary Inquiry<sup>14</sup>

## **7. Industry Mapping and Data**

Having reliable data is crucial for evidence-based policy development and investment for any industry, including the live music and performance sector.

There are good case studies we can turn to for examples of public facing industry mapping best practice:

- 1) The recent regional and metropolitan live music census work in Victoria.<sup>15</sup>
- 2) The Cultural and Economic Value of Live Music Making in Australia 2014 from the University of Tasmania and the Live Music Office.<sup>16</sup>
- 3) The Live Music Office has also delivered and supported extensive live music census work, including:
  - 1) Wollongong (2013)
  - 2) Adelaide (2015)<sup>17</sup>
  - 3) Adelaide (2016)<sup>18</sup>

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<sup>14</sup> [https://www.parliament.nsw.gov.au/lcdocs/inquiries/2471/Final\\_report\\_website.pdf](https://www.parliament.nsw.gov.au/lcdocs/inquiries/2471/Final_report_website.pdf)

<sup>15</sup> [Live music in Melbourne under fresh threat after COVID horrors \(smh.com.au\)](https://www.smh.com.au)

<sup>16</sup> [Research on Australia's live music sector - Live Music Office](#)

<sup>17</sup> [Adelaide Live Music Census 2015 released - Live Music Office](#)

<sup>18</sup> [2016-Adelaide-Live-Music-Census.pdf \(livemusicoffice.com.au\)](#)



- 4) Adelaide (2017)<sup>19</sup>
- 5) Northern Territory (2017)
- 6) City of Gold Coast (2018)
- 7) Newcastle (2018)<sup>20</sup>
- 8) Inner West (2019)<sup>21</sup>

Delivering public facing census and research projects does require resourcing and investment and having buy-in from state and/or local governments will be required if evidence-based policy is to be better supported.

Conducting a Live Music Census was a recommendation from the 2018 Music and Arts Economy Parliamentary Inquiry<sup>22</sup>

### **8. Presentation and Promotion - Vouchers and Rebates**

One of the good things to eventuate from the Covid pandemic was the introduction of Dine and Discover vouchers, which sadly have been discontinued in Sydney, although rebooted in Melbourne.

The voucher system has extraordinary potential to support cultural participation broadly across demographics, the wider city and arts and cultural activity.

One of the shortfalls from the voucher system was it whilst it worked well business to business such as between a customer and a restaurant, when a third-party was involved such as a ticketing agency then complications arose.

Introducing alternative approaches to these challenges such as a rebate program or an investment by the New South Wales government to enable better integration between vouchers and ticketing systems would put into place infrastructure that could revolutionise the way we fund and experience the arts in New South Wales.

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<sup>19</sup> [2017 Adelaide Live Music Census - Live Music Office](#)

<sup>20</sup> [Newcastle Live Music Census Released - Live Music Office](#)

<sup>21</sup> [Is Inner West the NSW Live Music Capital - Live Music Office](#)

<sup>22</sup> [https://www.parliament.nsw.gov.au/lcdocs/inquiries/2471/Final report website.pdf](https://www.parliament.nsw.gov.au/lcdocs/inquiries/2471/Final%20report%20website.pdf)

Matching a reconstituted voucher or rebate system with a well-resourced guide where dedicated staff maintain website and promotional resources populated with comprehensive, accurate and up to date what's on information across the greater city or state would be of great benefit.

For example, vouchers could be made available for jazz music or blues music or electronic music or country music for a month each across the gigs that present these types of genres in the city, or focus on a particular part of the city, or event.

There could be a theatre month, where going to the dramatic arts is subsidised, or live music or comedy, or dance or local home grown cinema.

The potential culture building and economic benefits from focused targeted investment under this system would be unparalleled.

## 9. NSW Police

The processes of New South Wales Police around licensing decisions and compliance operations are both areas where the community would like to see more transparency and public evaluation. A series of findings and recommendations from the Joint Select Committee on Sydney's Night-Time Economy Report recognised there's more work to do in this area<sup>23</sup>.

On 8 April 2017 the LMO delivered a broad presentation to the Create NSW Night-Time Economy Taskforce on the music industry and better regulation, informed by our work nationally, as well as at the state and local level in NSW.

Amongst the agenda and associated references from the 2016 Night-Time Economy Roundtables was an item relating to Policing. There had been a number of interactions between venues, patrons and the NSW Police that had been problematic from our view over time, and we could see the need to build better mutual understanding and relationships with the NSW Police. This issue was also submitted to the Night Time Economy inquiry in 2018<sup>24</sup>.

From our presentation:

*To rebuild better working relationships and mutual understanding, we think that a way forward would be for a Live Music Industry Police Liaison Unit informed by the Gay and Lesbian Mardi Gras model be established. This could comprise Liquor and Gaming NSW, NSW police*

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<sup>23</sup> [Joint Select Committee on Sydney's Night Time Economy \(nsw.gov.au\)](https://www.nsw.gov.au/joint-select-committee-on-sydney-s-night-time-economy)

<sup>24</sup> [Submission 656 - Live Music Office.pdf \(nsw.gov.au\)](https://www.nsw.gov.au/submission-656-live-music-office)

*including ALEC, the live music sector and local government, and would provide the opportunity to convene on a biannual basis or where appropriate to work through policy and operational issues pertaining to NSW policing approaches to the live music and performance sector.*

In Victoria the Liquor Control Advisory Council is established under the Act to advise the Minister on problems of alcohol abuse and on any other matters referred to it by the Minister, and where The Council consists of a Chairperson and as many other members as the Minister considers it appropriate to appoint.

Having a similar approach for NSW would also have capacity to consider licensing decisions and compliance operations and given the commitment by the Parliament to better integrate licensing and planning in NSW, also have regard to associated approaches in development approvals and submissions by NSW Police.

The establishment of a dedicated council for sector and community involvement in operational policy would also be supported under s.7 of the *NSW Police Act 1990, Statement of values of members of NSW Police Force*<sup>25</sup> where a series of commitments are incorporated, including:

- (d) seeks to improve the quality of life by community involvement in policing,
- (e) strives for citizen and police personal satisfaction, and
- (h) ensures that authority is exercised responsibly.

Whilst the Office of the 24hr Economy Commissioner had established an advisory group of stakeholders, it's not clear to any degree especially to industry stakeholders not included as to how this committee is addressing this targeted area for attention.

## **10. NSW Drug Summit**

The music industry has long advocated to state and territory governments for the need for evidence-based approaches to harm minimisation for the use of recreational drugs. This was a major part of the NSW Music Festivals inquiry in 2019.

The following paragraphs are excerpts from the Live Music Office submission to this inquiry<sup>26</sup>.

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<sup>25</sup> [Police Act 1990 No 47 - NSW Legislation](#)

<sup>26</sup> [0046 Live Music Office.pdf \(nsw.gov.au\)](#)

Reconvening a NSW drug summit has growing support across the political spectrum in NSW.

Prior to the NSW election in January 2019, a group of cross-party NSW MPs comprising Liberals' MP Shayne Mallard, Committee member and Greens' MP Cate Faehrmann, Labor's Jo Haylen and independent MP Alex Greenwich petitioned the Premier to commit to a drug summit after the March election, warning that urgent action is needed to stop people dying at music festivals.

*"A drug summit, convened by the NSW government, and engaging people from across government, the not-for-profit sector, health and justice, would allow us an opportunity to properly examine all the evidence and find the right mix of responses."*

Previously in 2016 Liberal MP and Committee member from last year's Music and Arts inquiry Shayne Mallard said:<sup>32</sup>

*"Elected representatives should vigorously examine all approaches to the drug problem with a view to testing strategies to respond to changing circumstances,"*

Prior to that in 2014, former Premier Bob Carr also brought his support for a fresh summit for NSW

*"I would strongly recommend to both sides of politics that after the state election – whatever the outcome, they reassemble a convincing summit with a full spectrum of views, experience and expertise ... so every treatment and management option is on the table. And flashing in neon above the Speaker's chair should be one very short, simple question ... 'is there a better way?' Because that was the spirit of the 1999 summit - and we found there were many better ways." "Given the way governments spend money, particularly in the health area, getting people to come in under their own steam ... to share their expertise ... is a far more cost-effective way of reviewing policy than handing everything over to consultancy firms."*

Establishing a drug summit for NSW was not a recommendation from the Music Festivals Parliamentary inquiry, however the matter was referred to the state coroner<sup>27</sup>.

The Live Music Office brings our backing also for reconvening a drug summit for NSW to provide a comprehensive forum to examine harm reduction measures in the state.

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<sup>27</sup> [Report \(nsw.gov.au\)](https://www.nsw.gov.au)