2 March 2018

Portfolio Committee No. 6 - Planning and Environment
NSW Legislative Council
Parliament House
6 Macquarie Street
Sydney NSW 2000

Dear Committee,

Inquiry into the music and arts economy in NSW

As the peak body for Australia's $2.5 billion live performance industry, Live Performance Australia welcomes the opportunity to make a submission to this *Inquiry into the music and arts economy in New South Wales* (Inquiry).

The live performance industry employs over 34,000 people nationally; supports more than 500 performing arts companies around Australia plus hundreds of venues, producers and music promoters. It supports the development of world-class talent both on stage and in production and technical areas. The industry attracts more than 18 million people each year to shows in capital cities, regional centres and country towns across Australia.

LPA's submission provides a summary of live performance activity in New South Wales (NSW) currently, and recommendations for how issues identified by our industry can be addressed to support a thriving live performance industry in NSW.

Summary of LPA Recommendations

1. Advocate for the Federal Government to provide tax incentives on pre-production costs for live productions to assist Australian producers finance the staging of new productions and attract investment in an internationally competitive market;
2. Establish a major seed fund for original works of scale developed in NSW;
3. Build a new lyric theatre in Sydney to meet the demand for musical theatre productions;
4. Establish a fund to support the professional development of regional venue staff; and
5. Establish a contemporary music action plan to grow the live music economy in NSW.

A vibrant live performance industry is critical to the economic, social and cultural wellbeing of NSW, and we ask the Government to continue to support and promote investment in our industry.

Once again, we thank you for the opportunity to present this submission for consideration.

Yours sincerely,

Evelyn Richardson
Chief Executive

E erichardson@liveperformance.com.au
T (03) 8614 2000

ABOUT LPA

LPA is the peak body for Australia's live performance industry. Established 100 years ago in 1917 and registered as an employers' organisation under the Fair Work (Registered Organisations) Act 2009, LPA has over 400 Members nationally. We represent commercial producers, music promoters, major performing arts companies, small to medium companies, independent producers, major performing arts centres, metropolitan and regional venues, commercial theatres, stadiums and arenas, arts festivals, music festivals, and service providers such as ticketing companies and technical suppliers. Our membership spans from small-medium and not-for-profit organisations to large commercial entities.

LPA has a clear mandate to advocate for and support policy decisions that benefit the sustainability and growth of the live performance industry in Australia.

LIVE PERFORMANCE AUSTRALIA

LPA SUBMISSION

Inquiry into the music and arts economy in NSW

1. LIVE PERFORMANCE INDUSTRY IN NSW

NSW has a thriving live performance industry and is rightly regarded as a leading State in the development and promotion of the arts and cultural activity. As reported in LPA's 2016 Ticket Attendance and Revenue Report[1], NSW consistently records the highest live performance ticket sales revenue and attendance amongst all the states and territories in Australia:

- In 2016 NSW generated $530.2m in ticket sales revenue and 6.1m in attendance.
- Revenue and attendance both steadily increased in 2016, by 10.9% and 8.6% respectively.
- Live performance events in NSW accounted for 37.1% and 32.3% of the industry market share of revenue and attendance respectively in 2016.
- The NSW spend per capita on live performance events in 2016 ($68) was well above the national average spend ($58.67 per capita).

LPA's Infographic Summary of NSW Live Performance in 2016 can be found at Appendix B (p.9).

2. ISSUES AND RECOMMENDATIONS

2.1 Support tax incentives for the creation and staging of live productions

Recommendation 2.1:
Advocate for the Federal Government to provide tax incentives on pre-production costs for live productions to assist Australian producers finance the staging of new productions and attract investment in an internationally competitive market.

LPA submits that the NSW Government should actively support the introduction by the Federal Government of tax incentives to support the staging of new productions in NSW. It is becoming increasingly more challenging for Australian theatrical producers to finance the staging of new live productions due to the high costs of pre-production and difficulties in attracting the required level of investment. As a result, opportunities for developing new ambitious Australian content with Australian-owned intellectual property and job creation are lost.

Within Australia, theatrical producers compete against other industries, notably film and TV, where the Federal Government provides tax incentives that allow screen producers to offset pre-production costs on qualifying expenditure. The Producer Offset provides:

- a 40% producer tax offset for feature film production; and
- a 20% producer tax offset for TV and other projects.

[1] Ernst and Young (2017), *Live Performance Industry in Australia: Ticket Attendance and Revenue 2016*, Report for Live Performance Australia

Screen Australia's recent study (November, 2017) found that 91% of screen producers surveyed reported that the introduction of the Producer Offset has provided a range of benefits critical to their business. The benefits include:

- significantly increasing the equity stake retained by screen producers to sustain their business and consistently produce content;
- making it easier to raise finance and increasing business revenue;
- providing a measure of security and confidence to attract investors to otherwise high-risk investments.[2]

Australian theatrical producers also compete for investors with international jurisdictions that offer significant tax incentives (e.g. UK and USA). The UK Theatre Tax Relief (TTR) scheme, in effect since September 2014, entitles live performance production companies in the UK to claim 20% of its total qualifying pre-production costs for non-touring productions, and 25% for touring productions. Both commercial and publicly-funded (subsidised) productions are eligible and can benefit from the scheme. Theatrical producers in the UK reported that the TTR scheme has improved their ability to finance new productions, resulting in more investment, employment and innovative risk-taking.[3] Almost 2,000 live productions have benefited from the scheme since its introduction, saving a total of £60 million that can then be reinvested into developing more new work and supporting more jobs.[4]

Australia's live performance industry needs a similar regime of tax incentives to attract the level of investment required to produce and stage world-class shows, support more Australian jobs and drive industry growth. Without internationally competitive tax incentives for our industry, Australian live performance risks being left behind in what is now a thriving global industry.

Economic analysis undertaken by Ernst & Young (EY)[5] found that investment incentives would encourage commercial producers and subsidised organisations to produce more work, and therefore increase economic activity. The level of economic activity generated increases as the level of investment incentives increases (see Table 1).

The EY modelling estimates that:

- a 10% tax incentive would support 22 new productions, generating an additional $229.5 million in industry turnover, an additional $100.1 million in industry value add and 863 additional jobs
- a 25% tax incentive would support 347 new productions, generating an additional $760.6 million in industry turnover, an additional $337.2 million in industry value add and 2,906 additional jobs
- a 40% tax incentive would support 555 new productions, generating an additional

[2] Screen Australia (November 2017), *Skin in the Game: The Producer Offset 10 Years On*, p.3-17
[3] Society of London Theatre, Media Release (11 May 2016), *Ticket Relief News*, accessed online: < https://uktheatre.org/theatre-industry/news/tax-relief-news/>; The Stage (21 July 2017), *Theatre tax relief brings savings to nearly 2,000 shows*, accessed online: < https://www.thestage.co.uk/news/2017/theatre-tax-relief-brings-savings-nearly-2000-shows/>.
[4] Ibid.
[5] Ernst and Young (2016), *Investment support for the live performance industry*, Report for Live Performance Australia

$1.2 billion in industry turnover, an additional $540.1 million in industry value add and 4,650 additional jobs.

NSW stands to significantly benefit from the new productions, additional industry turnover, value add and jobs that would be created by the introduction of federal tax incentives, as the majority of live performance activity occurs in NSW.

Table 1: Change in economic activity (incremental to base case) resulting from tax incentives

Incremental to base case	10% tax incentive	25% tax incentive	40% tax incentive
New productions	22	347	555
Industry output (industry turnover)	$229.5m	$760.6m	$1,216.9m
Industry value add (wealth generation)	$100.1m	$337.2m	$540.1m
Employment (FTE)	863	2,906	4,650

While there is a cost to government in providing incentives to producers, these expenses will be recouped through taxes earned on increased economic activity. The EY economic analysis found that there is a net positive return on investment to government by providing investment incentives on pre-production costs for live productions when tax incentives are set at a level between 25 and 40 per cent (see Table 2).

Table 2: Government return on investment

	10% tax incentive	25% tax incentive	40% tax incentive
Investment incentive outlay by government (Incentives provided to producers)	$37.7m	$94.3m	$150.9m
Additional tax revenue received by government	$28.5m	$95.9m	$153.4m
Net (cost)/revenue to government	**($9.3m)**	**$1.6m**	**$2.5m**

The NSW Government can support the development of new live productions by advocating for Federal tax incentives, and by considering other funding incentives the NSW Government could provide to create and stage productions in NSW.

Further details on this proposal can be found at Appendix A (p.7).

2.2 Provide seed funding for works of scale

Recommendation 2.2:
Establish a major seed fund for original works of scale developed in NSW

NSW has the opportunity to establish intellectual property, jobs and tourism opportunities derived from the creation of new original work. However, creating original work is risky and requires significant upfront capital to bring an idea to life. Few original works of scale are produced in Australia due to high development costs associated with 'proving the concept' and 'pre-production'. Creative teams will firstly develop an idea into a script and then conduct a series of workshops to prove the concept. If the idea passes the proof of concept stage, it continues to be developed in a pre-production phase. It is then typically tested with audiences and revised based on test audience feedback before the final product is presented. This entire process typically takes several years of high-cost development, which presents a disincentive for investors due to the significant delay in receiving a return on investments.

There are a variety of benefits resulting from the creation of original work. For creatives and professionals, it provides opportunities to work on new productions that significantly enhances their skills and career prospects. New original works also generate creative intellectual property. This provides opportunities for new works to be licensed overseas, resulting in royalties flowing back to the original copyright owners and investors, including the NSW Government if they were to retain an equity stake. NSW can also benefit economically and culturally from the premiere or exclusive season of a major original production taking place in NSW. This supports the aspiration of NSW to further cement its status as a leading cultural state globally.

LPA is aware of several Australian theatrical producers that have chosen to produce new work in overseas territories, particularly the UK, due to the more competitive financing incentives those jurisdictions provide. As a result, intellectual property royalties and new jobs generated by the successful works by Australian creatives are being created overseas. To avoid more lost opportunities for Australian-owned work, the NSW Government should implement an initiative to support the creation of new work in NSW. A seed fund to support the creation of more original 'works of scale' in NSW could give priority to those works that:

- have potential for domestic and international IP or licensing exploitation;
- create employment for NSW creatives, performers and technicians;
- have potential to increase tourism; and
- demonstrate market demand.

Access to the seed fund should be open to not-for-profit and commercial companies. Criteria for seed investment in works of scale would include, for example: venue size (600-2000); cast, creative and technicians (minimum of 12 employees); and matched funding.

The Victorian Government has acknowledged the potential in supporting the creation of original works of scale. Creative Victoria is expected to launch *Landmark Works* in due course, a program to commission works that are "ambitious and ground-breaking, with the power to inspire others, generate widespread audience and community engagement and increase tourism".[6] To date further details on this program have not been released as far as we are aware.

2.3 Build a new lyric theatre in Sydney

Recommendation 2.3:
Build a new Lyric Theatre in Sydney to meet the demand for musical theatre productions

[6] Creative Victoria (2016), *Creative State: Victoria's First Creative Industries Strategy*, p.17

LPA supports the NSW Government commitment to develop a Cultural Infrastructure Plan with clear priorities and measurable outcomes to 2025 to support the long-term cultural economy in NSW. We commend the commitment to priority infrastructure projects already under way including the Regional Cultural Fund, Paramatta Riverside Theatres joint venture, Walsh Bay Arts and Cultural Precinct, and the Sydney Opera House Stage One Renewal and Joan Sutherland Theatre Upgrade. LPA looks forward to further consultation with the NSW Government on development of the Cultural Infrastructure Plan to ensure the varying venue infrastructure needs of the live performance industry have been considered and addressed.

A key issue the NSW Cultural Infrastructure Plan must address is the significantly insufficient theatre space to accommodate demand for musical theatre. Specifically, Sydney needs a new lyric theatre with a capacity of 1,500 - 1,800 seats to cater for both existing and future demand. Currently the only viable venue options for presenting long-running major musical theatre seasons in Sydney is at the Capitol Theatre or the Sydney Lyric, both with a capacity of 2,000 seats. In comparison, Melbourne has a number of venues that regularly stage musicals including the State Theatre at Arts Centre Melbourne (2,000 seats), Princess Theatre (1,500 seats), Regent Theatre (2,000 seats), and Her Majesty's Theatre (1,700 seats). Additionally, the Comedy Theatre (1,000 seats) and Athenaeum Theatre (1,000 seats) are also viable options for musical theatre productions with shorter running seasons.

The lack of sufficient viable venues available to stage long-running major musical seasons results in a loss of economic opportunity and activity not only for NSW, but for Australia's overall ability to support major musical tours nationally. The *2016 Ticket Attendance and Revenue Report*[7] indicated that NSW experienced an increase in musical theatre revenue by 15.5% and in attendance by 5.4%, primarily driven by performances of major musicals taking place including My Fair Lady, The Sound of Music and Aladdin. NSW generated $125 million in musical theatre revenue and 1.13 million attendances. However, Victoria still generated the highest market share of revenue (37.2%) and attendance (37.3%) in musical theatre. This suggests there is high and growing demand for major musical theatre shows in NSW, but there is a lack of appropriate venue space available to meet this demand, resulting in a lost opportunity for the state.

2.4 Provide funding for upskilling regional venue staff

Recommendation 2.4:
Establish a fund to support the professional development of regional venue staff

The NSW Government has taken positive measures to provide funding support for arts and cultural programs in regional NSW, including the recently introduced *Regional Cultural Fund* which will invest $100 million over four years to drive growth in regional infrastructure. This is a welcome initiative that builds the capacity for growth of live performances in regional NSW. Alongside the

[7] Ernst and Young (2017), *Live Performance Industry in Australia: Ticket Attendance and Revenue 2016*, Report for Live Performance Australia, p.77

investment in regional infrastructure, regional venues need access to funding to upskill and train venue staff in technical skills, administration, marketing, audience development, production and other relevant business skills. This support is necessary to ensure that regional venues have both the infrastructure capacity and skills expertise to support the cultural and economic growth of live performance in regional NSW.

2.5 Support the Contemporary Music Economy

Recommendation 2.5:
Establish a contemporary music action plan to grow the live music economy in NSW

The largest share of Australia's contemporary music activity occurs in NSW. In 2016 NSW generated the highest share of contemporary music revenue at $157.6 million (35.8% of national market share) and attendance 1.91m (33.7% of national market share).[8] However, the local live music economy in NSW has come under threat in recent years and there exists a number of risks to its vitality. This includes inadequate funding support, a lack of affordable rehearsal and performance spaces, and onerous regulatory red tape (e.g. liquor licensing, noise restrictions) that is suffocating the live music scene in NSW.

There are a number of funding, venue access and regulatory issues that need to be addressed in NSW. This calls for the establishment of a co-ordinated contemporary music action plan with clear priorities and strategies to sustain the live music industry in NSW. This plan should include wide consultation with the live music industry. The NSW Government can also draw upon the actions and initiatives taken by other states to support their respective live music economies. There are notable strategic action plans, regulatory reform initiatives and funding support packages for contemporary music in Victoria[9] and South Australia[10]. Western Australia is also committed to regulatory reforms and funding to support their contemporary music industry.[11]

Initiatives to support the growth of live music are also being considered by local councils across NSW, including the City of Sydney and City of Newcastle. For example, the City of Sydney has a *Live Music and Performance Action Plan*[12] with a suite of 57 short and long-term actions for supporting Sydney's live music and performance economy. The actions specifically focus on addressing the challenges of development controls and noise restrictions, liquor licensing and audience and sector development. The NSW Government should support initiatives by local councils to grow live music in their local areas.

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[8] Ernst and Young (2017), *Live Performance Industry in Australia: Ticket Attendance and Revenue 2016*, Report for Live Performance Australia, p.68-70
[9] Creative Victoria (2018), *Music Works*, <https://creative.vic.gov.au/funding-and-support/programs/music-works>
[10] Arts South Australia and Department of State Development (2018), *Music Development Office*, < http://mdo.sa.gov.au/>
[11] WA Labour (20 January 2017), *Media Release: A McGowan Labor Government in tune with the WA music industry*, < https://www.markmcgowan.com.au/news/a-mcgowan-labor-government-in-tune-with-the-wa-music-industry-1288>
[12] City of Sydney (2018), Live music and performance strategy, <http://www.cityofsydney.nsw.gov.au/vision/towards-2030/communities-and-culture/culture-and-creativity/live-music-performance-strategy>

INVESTMENT SUPPORT FOR THE LIVE PERFORMANCE INDUSTRY: Tax incentive proposal

Rationale

The live performance industry contributes over $2.5 billion annually to the Australian economy. It employs over 34,000 people nationally, supports more than 500 performing arts companies around Australia plus hundreds of venues, producers and music promoters. It also attracts more than 18 million people to shows in capital cities, regional centres and country towns. However, it is becoming increasingly more difficult for Australian producers to stage new productions due to the high costs of pre-production and difficulties in attracting the required level of investment.

Australian producers are now competing for investors in international jurisdictions that offer significant tax incentives (e.g. UK and USA). Within Australia, live performance producers compete against other industries, notably film and TV, where a 40% producer tax offset for film and 20% tax offset for tv production exists. These tax incentives allow producers to offset pre-production costs on qualifying expenditure. There is an urgent need for live performance producers to access tax incentives to attract the level of investment required to produce and stage world-class shows, support more jobs and drive industry growth.

Benefits of investment incentives

Stimulating investment in new live productions =

- Stimulates direct and indirect economic activity
- Licensing and export opportunities
- Provides employment and skills development opportunities
- Improves producers' equity share and builds sustainable businesses
- Contributes to cultural vibrancy
- Improves social cohesion and wellbeing through community participation and attendance

Economic impact of investment incentives

Investment incentives will stimulate economic activity. The level of economic activity generated increases as the level of investment incentive increases.

- ↑ **up to 73%** Number of new productions
- ↑ **up to 54%** Additional industry output
- ↑ **up to 53%** Additional industry value add
- ↑ **up to 59%** Additional employment

Incremental to base case	10% tax incentive	25% tax incentive	40% tax incentive
New productions	22	347	555
Industry output (industry turnover)	$229.5m	$760.6m	$1,216.9m
Industry value add (wealth generation)	$100.1m	$337.2m	$540.1m
Employment (FTE)	863	2,906	4,650

Source: EY (2016), Investment support for the live performance industry, Report for Live Performance Australia, August 2016

Government return on investment – cost neutral

There is a small net positive return on investment to government by providing investment incentives on pre-production costs for live productions.

	10% tax incentive	25% tax incentive	40% tax incentive
Investment incentive outlay by government (Incentives provided to producers)	$37.7m	$94.3m	$150.9m
Additional tax revenue received by government	$28.5m	$95.9m	$153.4m
Net (cost)/revenue to government	**($9.3m)**	**$1.6m**	**$2.5m**

Source: EY (2016), Investment support for the live performance industry, Report for Live Performance Australia, August 2016

LIVE PERFORMANCE AUSTRALIA

Live Performance Australia (LPA) is the peak body for Australia's live performance industry. LPA represents commercial and independent producers, music promoters, major performing arts companies, small to medium companies, venues (performing arts centres, commercial theatres, stadiums and arenas), festivals, and service providers such as ticketing companies and technical suppliers.
Economic analysis on the impact of investment incentives was undertaken by Ernst & Young (EY) for LPA.

Tax incentive schemes

UK Theatre Tax Relief

20% Tax relief for non-touring productions

25% Tax relief for touring productions

- Following the economic and cultural success of creative sector tax relief in the UK, particularly in film, TV and video games, the Theatre Tax Relief (TTR) scheme was introduced as part of the Finance Act 2014 (“Act”) and came into effect on 1 September 2014.
- The TTR is intended to encourage and support investment in the production and touring of UK live dramatic works (including plays, operas, musicals, ballets and circus), with the objective of maintaining the sustainability of live performance in the UK.
- This model provides a clear policy precedent for the extension of tax-based incentives into the live performance industry.
- The TTR entitles production companies to claim 20% of its total qualifying pre-production costs for non-touring productions, and 25% for touring productions.
- Both commercial and publicly-funded (subsidised) productions are eligible and can benefit from the scheme, as trading subsidiary arrangements effectively enable not-for-profit organisations to access the scheme.
- Return on costs can be re-invested into new works, or passed on to investors.
- Almost 2,000 live productions have benefited from the TTR scheme since its introduction, saving a total of £60 million so far.

USA Tax Relief for live theatrical productions

100% Federal deduction for investment

20 – 35% State based tax relief

- The UK Government is not the only country to have recognised the need to remain globally competitive. The US has a legacy of state-based tax incentives for theatrical productions. These apply in Illinois, Louisiana, New York State (not including New York City), and Rhode Island.
- The provisions range from 20% - 35% tax credits for qualifying expenditure by production companies.
- The common purpose of these incentives is primarily to increase jobs and economic outputs by increasing the State’s competitive position for incentivising theatrical producers to bring productions to their state.
- In December 2015, the US government passed federal legislation that establishes equal tax treatment for live theatrical productions as is provided for film and TV.
- It allows a 100% deduction for investment in live performance by the investor from their income in the year of the investment.
- The legislation allows investors to immediately recoup their investments prior to taxes being assessed on profits earned. This is intended to deepen the pool of interested investors in commercial theatrical productions.

Film and TV Producer Offset

40% Tax relief for feature films

20% Tax relief for non-feature films
(TV, mini-series, documentaries)

- In 2007 the Producer Offset was introduced as part of the Australian Screen Production Incentive (ASPI), a package of measures to boost support for the Australian film and television industry.
- It provides a refundable tax offset (rebate) for producers of Australian feature films, television and other projects.
- Feature films are eligible for a 40% rebate of qualifying expenditure, and other programs such as TV, mini-series and documentaries are eligible for a 20% rebate.
- Screen Australia conducted a review of the Producer Offset in 2017, ten years after it was introduced. The report found that the Producer Offset “unquestionably” provided critical financial support for addressing the challenges of raising revenue to meet production budgets.
- Additionally, the report found that the Producer Offset improved the equity share retained by producers in their film and television projects.
- Improved equity share has allowed producers enhanced leverage to attract private investment from new and existing sources. This directly supports producers building sustainable production businesses.

Source: Screen Australia (Nov 2017), *Skin in the Game: The Producer Offset Ten Years On*

LIVE PERFORMANCE INDUSTRY IN 2016

NEW SOUTH WALES

NSW GENERATED

35%

OF NATIONWIDE REVENUE AND ATTENDANCE

REVENUE UP

11%

FROM 2015

ATTENDANCE UP

9%

FROM 2015

SHARE OF NATIONAL POPULATION

32%

TOTAL REVENUE (TICKET SALES)

$530,186,274

NSW SPENT $68 PER PERSON ON LIVE PERFORMANCE EVENTS

NATIONAL SPEND PER PERSON: $59

TOTAL ATTENDANCE (TICKETS ISSUED)

6,073,498

LIVE PERFORMANCE INDUSTRY IN 2016

NEW SOUTH WALES

TOP 3 REVENUE

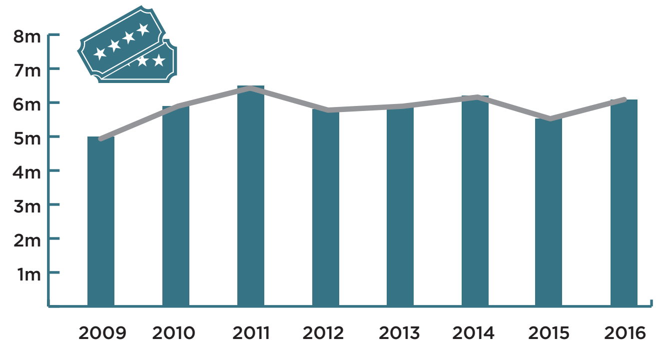
1. CONTEMPORARY MUSIC
$157,626,354

2. MUSICAL THEATRE
$125,214,539

3. FESTIVALS (CONTEMPORARY MUSIC)
$43,563,204

TOTAL REVENUE (2009–2016)

TOTAL ATTENDANCE (2009–2016)



TOP 3 ATTENDANCE

1. CONTEMPORARY MUSIC
1,909,137

2. MUSICAL THEATRE
1,126,562

3. THEATRE
638,853

NSW GENERATED **66%** OF NATIONWIDE OPERA REVENUE

AND **57%** OF NATIONWIDE OPERA ATTENDANCE

CIRCUS & PHYSICAL THEATRE INCREASED IN REVENUE BY **140%** AND ATTENDANCE BY **122%**, LARGELY DUE TO CIRQUE DU SOLEIL'S PERFORMANCES OF *QUIDAM* AND *KOOZA*