

5 July 2019

Regulation Committee  
Legislative Council  
Parliament House  
6 Macquarie Street  
SYDNEY NSW 2000

Dear Committee,

***Inquiry into the Liquor Amendment (Music Festivals) Regulation 2019 and the Gaming and Liquor Administration Amendment (Music Festivals) Regulation 2019***

Live Performance Australia (LPA) welcomes the opportunity to make this submission to the inquiry into the *Liquor Amendment (Music Festivals) Regulation 2019* and the *Gaming and Liquor Administration Amendment (Music Festivals) Regulation 2019*.

LPA is the peak body for the live performance industry. LPA was established over 100 years ago and is registered as an employers' organisation under the *Fair Work (Registered Organisations) Act 2009*. LPA has over 400 members nationally. We represent all sectors of the industry, including music promoters, music festivals, live music venues and service providers (such as ticketing companies and technical suppliers). We also represent commercial and independent producers, performing arts companies, arts centres and commercial theatres and arts festivals. 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 ensure industry sustainability and future growth.

We are pleased that the Committee is now undertaking consultation on these regulations. We made numerous attempts on behalf of our members to engage with the Government on the development of these regulations prior to their introduction. The Government's rushed approach to these regulations did not allow for proper industry consultation, which in turn caused considerable confusion and apprehension across the industry. This was despite our publicly stated desire to work cooperatively with the Government on regulations that would be effective in improving safety outcomes at music festivals given our strong commitment to improving safety for festival patrons.

By working collaboratively with our members who collectively have decades of experience in running safe and successful events and festivals in Australia and overseas, the Government could have achieved industry support for better safety that was practical, deliverable and did not undermine the financial or operational viability of festivals.

This submission summarises the reasons LPA supports disallowance of the new regulations, industry context, impact of regulations, and key issues and recommendations.

## SUMMARY OF REASONS LPA SUPPORTS DISALLOWANCE

LPA has serious concerns about the new regulations and strongly supports their disallowance. Our reasons for this are:

- Use of the *Liquor Act 2007* to address complex health and safety issues related to illicit drugs
- Definitions that do not fit with current industry understanding
- Guidelines in the regulations that are not viable for implementation as currently drafted
- Discretionary power allows for subjective decisions to be made by the Independent Liquor & Gaming Authority (ILGA), which do not provide certainty for event organisers
- Significantly increased discretionary police powers.

## INDUSTRY CONTEXT

Music festivals are a cornerstone of NSW's cultural vibrancy, with almost 400,000 people attending a contemporary music festival in NSW in 2017. Festivals are held in metropolitan, regional and rural locations. Some of the better-known events include Byron Bay Bluesfest, Splendour in the Grass (North Byron Parklands), Groovin the Moo (Maitland) and Falls Festival (Byron Bay). Events such as Bluesfest have a global reputation. Music festivals are a significant economic contributor to local economies, particularly in regional and rural areas. They were the third largest contributor to ticket sales revenue (\$55 million) in NSW in 2017 after contemporary music concerts and musical theatre.

In its submission, the Australian Festival Association (AFA) outlines the music festival business model, which is typically project-based and reliant on ample lead-time to set ticket prices and pay deposits for artists and production services. Budgets for all music festivals, inclusive of ticket prices, are generally finalised 12-18 months in advance. Event organisers for ticketed, for-profit music festivals operate within extremely slim margins, while not-for-profit music festivals operate on shoestring budgets. Uncertainty about discretionary costs that may be imposed at the last minute, such as policing or security fees, can make a festival financially unviable. Festivals cannot recoup last minute cost increases from tickets that have already been sold nor renegotiate artist performance fees. They are also exposed to supplier costs and contracts. If there is doubt over a festival's viability, the only solution is to cancel it.

LPA believes that over-regulation of music festivals could force the closure or relocation of long-established, well-managed and safe events that contribute tens of millions of dollars to the NSW economy, including regional areas, in addition to job losses in those businesses and communities that support festival activity both directly and indirectly. LPA wants to ensure NSW continues to host and establish events that thrive and attract local, interstate and international audiences to help stimulate the local economy and benefit the state of NSW.

Finally, in addition to submissions received and the upcoming hearing, **LPA urges the Committee to respect the process of the coronial inquest currently taking place on the matter of deaths at music festivals.**

## IMPACT OF REGULATIONS

LPA is concerned about the ramifications of the new regulations for the NSW music festival industry, which include, but are not limited to:

- Cancellation of festivals due to loss of capital used to pay for artists and production services
- Relocation of festivals interstate due to financial uncertainty or unviability in NSW with a loss of cultural capital, industry expertise and employment opportunities
- Disruption to the festival industry due to forced delays in booking artists and headline acts, with flow-on effects to other venues given the number of festival 'side tours', especially by international artists
- Industry reputational harm based on poorly informed commentary and negative media coverage of festivals, both locally and internationally.

Ultimately, the new regulations may increase the relative cost of music festivals in NSW for both event organisers and event patrons, and place NSW at a significant competitive disadvantage in fostering live music and cultural innovation compared to other destinations in Australia and overseas.

## KEY ISSUES AND RECOMMENDATIONS

### Transparency

We continue to hold serious concerns about the transparency of the administrative, financial and regulatory burden of the new regulations. Failure to be transparent about requirements and conditions attached to an event may result in event organisers being unable to deliver an event due to time and budgetary constraints being overlooked. **This is particularly apparent in the uncertainty among event organisers about the definition of a music festival according to the *Liquor Regulation 2018* and, consequently, which music festival events are determined as high-risk by ILGA.**

LPA notes that it is crucial that event organisers uphold good relationships and commence discussions early in the planning process with relevant agencies. These agencies include NSW Police, NSW Health representatives and NSW Ambulance, in the development and implementation of their Safety Management Plan. In order to best facilitate this process, **regulations need to be fit-for-purpose, and also provide adequate clarity and certainty to music festival event organisers about resourcing requirements and associated budgetary implications.**

### Centralised Operations

LPA acknowledges the importance of adequate medical and policing resources for music festivals. However, the provision of these resources differs between regions in NSW, creating inconsistency in approach. **Centralised operations and despatching of resources is required to provide consistency and efficacy in addressing safety concerns at large-scale events**, resulting in better management of valuable police and emergency services resources.

**Furthermore, LPA recommends that a risk assessment needs to be conducted to ensure rural areas are not negatively impacted and local medical and policing resources are adequate to respond to any emergency during a peak time.**

### *Guidelines for Music Festival Event Organisers: Festival Harm Reduction*

LPA recognises the value and detail offered by the *Guidelines for Music Festival Event Organisers: Festival Harm Reduction* developed by the NSW Ministry of Health. LPA acknowledges the importance of harm minimisation related to drug and alcohol use, although **recommends these issues are considered in the context of broader community health and safety initiatives** and not just characterised as a problem that occurs at music festivals.

LPA believes that event organisers are well-placed to bring their experience and expertise in festival management and operations to engage in discussions around measures to deliver better safety outcomes. **Industry consultation could be utilised to update the existing *Guidelines for Music Festival Event Organisers: Festival Harm Reduction*.**

### Harm Minimisation

The Government's rushed response to festival regulation was in response to concern about some tragic circumstances at festivals. However, the dangers of drug and alcohol use go beyond the boundaries of a festival event and responding to them needs a more sophisticated approach than simply targeting festival events. To date, evidence has not been provided to support the assertion that music festivals have drug or alcohol incidents at a higher rate than occurs throughout the NSW community on a daily basis. **LPA's view is that the NSW Government should develop a broader strategy to address this social problem and better understand user**

**behaviour and identify significant points of intervention.** At the very least, **the Government's response to festival safety requires a much stronger evidence base** to accurately identify the extent of the problem and the best strategies to respond.

There has been some debate around the merits of pill testing and related harm minimisation initiatives. We want to work constructively with the NSW Government on effective and practical measures that support the safety and welfare of people attending music festivals. **This could include exploring proactive, evidence-based and effective approaches to harm minimisation related to drug and alcohol use** by festival patrons and the opportunity for a uniform and informed approach on these matters. **The Government should be investigating the results of pill testing trials in the ACT** as part of this consideration.

### **AFA Recommendations**

LPA strongly supports the feedback and recommendations submitted by the Australian Festival Association, representing the experience and expertise of the Australian music festival industry. We commend their submission and urge the Committee to give their recommendations careful consideration.

LPA recommends the Committee support the disallowance of the regulations and enable the Government to undertake proper consultation with industry on more effective and efficient regulations that would include:

1. **Managing the sale and supply of liquor through existing suitable license arrangements**, including Limited Licence – Special Event (Large Scale Commercial where appropriate)
2. **Immediately establishing a Regulatory Roundtable for Festivals** in NSW to address short- to medium-term regulatory changes through a measured, consultative approach
3. **Managing health-related risks at festivals through NSW Health** with updated NSW Health Guidelines for Music Festival Organisers included as part of event planning at the Local Government/venue level
4. **Centralising Major Event Police operations** to ensure consistency, transparency and efficacy in addressing safety concerns at large-scale gatherings
5. **Investing in Peer-based Harm Reduction Services** to ensure recommended service levels are available to festival organisers
6. **Establishing a Live Music Roundtable in New South Wales**, based on the Victorian model, that includes key government agencies and music industry stakeholders
7. **Commissioning further research into recreational drug use** to adopt an evidence-based, health-focused approach to drug regulation

LPA acknowledges the commitment of event organisers to support the safety and well-being of the hundreds of thousands of Australians who attend a music festival each year. As the peak body for Australia's live performance industry, LPA would be pleased to facilitate your government's engagement with our industry on these important issues, to engage in meaningful discussion and work cooperatively towards our shared objective of better safety outcomes.

Should you have any queries regarding our submission, or would like to discuss these issues further, please do not hesitate to contact LPA at any time.

Yours sincerely,



**Evelyn Richardson**  
Chief Executive

## ABOUT LPA

LPA is the peak body for Australia's live performance industry. Established over 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.

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Louise Withers & Associates

### **Observers**

**Cameron Hoy** Ticketek

**Tim McGregor** TEG Live

**Paula McKinnon** The Walt  
Disney Company