

NSW: REVIEW OF THE MUSIC FESTIVALS ACT 2019

Submission from Live Performance Australia

INTRODUCTION

LPA welcomes the opportunity to provide feedback on the *Music Festivals Act 2019* (the Act). This submission responds to questions raised throughout the Consultation Paper and recommends the following:

- **Repeal the Act** and replace it with a best-practice, industry-advised approach to patron health and safety issues with a stronger focus on harm minimisation.
- **Invest in harm reduction research and clinical services.** For example, by commissioning further research into recreational drug use and pill testing to address health and safety concerns.
- **Invest in centralised medical and policing operations** to better manage necessary resources, rather than increasing regulation and police presence.
- **Maintain the Music Festivals Roundtable** to ensure an effective working relationship between government and industry.
- If the Act is to remain in force, LPA recommends that **NSW Health replace Liquor & Gaming NSW as the relevant authority.** This health-focus is better aligned with the Act's objectives and the expertise most valuable and relevant to festival organisers.

These recommendations align with LPA's 2019 submission to the inquiry into the Liquor Amendment (Music Festivals) Regulation 2019 and the Gaming and Liquor Administration Amendment (Music Festivals) Regulation 2019 (**Attachment 1**).

LPA also urges Liquor & Gaming NSW to consider the issues and recommendations in the 2019 inquest into the death of six patrons of NSW music festivals (2019 Inquest), particularly in relation to the risks of over-policing events instead of focusing on harm reduction.¹

In addition, LPA strongly supports the feedback submitted by the Australian Festival Association.

¹ [Inquest into the death of six patrons of NSW music festivals](#)

INDUSTRY CONTEXT

Festival promoters are focused on delivering safe, enjoyable and inclusive events. This includes growing and diversifying the audience for music festivals, to encourage greater and repeat participation. In this context, patron safety is a top priority in delivering successful music festival events.

There is no 'one size fits all' audience for a music festival. They vary according to music genre and the nature of the festival, covering a wide range of demographic groups and interests.

In 2022, Contemporary Music Festivals in NSW generated \$87.3m in ticket revenue (the highest of all states and territories) and 510,325 ticketed attendances. This is approximately one-third of total attendances across the country, according to data collected for the *2022 LPA Ticket Attendance and Revenue Report*.

Music festivals provide critical employment and income opportunities for performers, as well as a platform to grow their audience. They also create direct employment for artists, production and technical personnel, hospitality and venue service providers. Additionally, music festivals support the broader visitor economy (accommodation, hospitality and transport) particularly in regional destinations where they are major drawcards for intrastate and interstate visitation.

Cost pressures have increased across Australia

While the lifting of public health and travel restrictions that were imposed during the pandemic has enabled the return of audiences, festival organisers are under significant cost and operational pressures. There has been a huge increase in production and touring costs (of between 30-50%), combined with higher insurance premiums and workforce shortages.

Festival organisers are also contending with changes in consumer behaviour caused by the pandemic and the more recent cost of living squeeze. Audiences are becoming more selective in which events they can afford to attend. They are also waiting longer to make ticket purchases, increasing the level of financial risk for festival promoters.

Festivals are increasingly being impacted by weather events which are causing disruption or cancellation. This necessitates new investment in festival sites to mitigate climate impacts. Against this backdrop, the regulatory environment for music festivals in NSW must be fit for purpose, highly cost efficient and focused on delivering the best health and wellbeing outcomes for festival patrons.

Festival Organisers in NSW are incurring disproportionate costs

LPA recommends using this review as an opportunity to **repeal the Music Festivals Act** and replace it with a best-practice, industry-advised approach to patron health and safety issues.

NSW has imposed excessive and costly regulatory burdens on its music festivals sector. Under the current arrangement, the NSW Police recommend the scale and cost of police presence at music festivals to the NSW Independent Liquor and Gaming Authority. This policing-led legislation and user-pays system makes presenting festivals in NSW significantly more expensive than other parts of Australia, as highlighted in the following examples.²

² Australian Festivals Association (2023) *Unpublished Data*

| Festival 1 | | | | | |
|---------------|----------|---------------|----------|---------------|----------|
| NSW patrons | 22,000 | VIC patrons | 30,000 | QLD patrons | 20,000 |
| NSW Medical | \$53,000 | VIC Medical | \$21,000 | QLD Medical | \$57,000 |
| NSW Ambulance | \$23,000 | VIC Ambulance | \$10,270 | QLD Ambulance | \$7,000 |
| NSW Police | \$67,000 | VIC Police | \$7,500 | QLD Police | \$37,000 |

| Festival 2 | | | | | |
|---------------|----------|---------------|----------|---------------|----------|
| NSW patrons | 16,000 | VIC patrons | 14,000 | QLD patrons | 14,000 |
| NSW Medical | \$44,100 | VIC Medical | \$18,450 | QLD Medical | \$9,370 |
| NSW Ambulance | \$18,500 | VIC Ambulance | \$9,150 | QLD Ambulance | \$0 |
| NSW Police | \$45,200 | VIC Police | \$18,000 | QLD Police | \$35,930 |

| Festival 3 | | | | | |
|---------------|----------|---------------|----------|---------------|---------|
| NSW patrons | 11,000 | VIC patrons | 15,000 | QLD patrons | 10,000 |
| NSW Medical | \$37,250 | VIC Medical | \$17,500 | QLD Medical | \$3,870 |
| NSW Ambulance | \$8,850 | VIC Ambulance | \$5,200 | QLD Ambulance | \$2,240 |
| NSW Police | \$33,850 | VIC Police | \$0 | QLD Police | \$8,920 |

RECOMMENDATION 1: REPEAL THE ACT

LPA recommends that the NSW Government repeal the Act and work with industry to develop an evidence-based and industry-advised approach to ensuring patron safety.

In addition to the health and safety benefits, this could also address current risks of event closure (due to disproportionate costs and over-regulation), loss of capital and competitive disadvantage for the NSW festival industry.

Legislation is not the most appropriate vehicle for achieving the Act’s objectives. The Act’s objectives remain valid. However, they can be achieved in a more balanced, resource-effective way through non-legislative means. This would also encourage the adoption of best practice from across the industry, informed by experience in Australia and internationally.

Unfortunately, the Act has not eliminated drug use, harm, or fatalities at music festivals in NSW. This can be seen in recent incidents and was also noted in the NSW Government’s review of the operation of the *Music Festivals Act 2019* (June 2020), which found that “the number of serious drug-related presentations was consistent between 2018-19 and 2019-20.”³

Despite this, the Act has also imposed costs on festival operators that are significantly higher than in other jurisdictions. As such, LPA recommends that the NSW Government undertake further research and cost-benefit analyses to determine more effective methods of ensuring the safety of attendees.

³ NSW Government (June 2020) *Review of the Operation of the Music Festivals Act 2019*

| Act Objective | LPA Comment |
|---|--|
| Support a well-coordinated approach when planning for music festivals. | <p>These objectives can be achieved through non-legislative means, such as increased investment in guidance (eg expanding on current Guidelines⁴), education tools, and centralised operations (eg medical and policing).</p> <p>A benefit of this approach is that it is more flexible and easily amended to account for changes to industry practice and emerging research, such as research relating to harm reduction and pill testing.</p> |
| Provide useful recommendations to festival operators on how to ensure they have adequate personnel and equipment on site to deal with risks such as drug overdoses. | |
| Give operators access to the world’s best practice advice from clinical and public safety experts. | |
| Ensure that the Government is able to allocate public resources effectively. | <p>The Act requires a disproportionate amount of public resourcing due to an emphasis on enforcement.</p> <p>Non-legislative strategy and policy documents can influence resource allocation in a more balanced, flexible and cost-effective manner.</p> |
| Hold festival operators accountable for running safer events. | <p>As outlined throughout this submission, these objectives are met in other jurisdictions (domestic and international) through a focus on non-legislative guidance and health and safety practices, rather than a reliance on legislated enforcement.</p> <p>This approach considers a broad range of evidence, research and best-practice examples, including recommendations from the 2019 Inquest.⁵</p> |
| Make sure that there are adequate medical personnel on site. | |
| Give festival attendees and their families the comfort that there are adequate measures in place to deal with possible risks associated with music festivals and that the Government has done all that is necessary to ensure people get home safely. | |

RECOMMENDATION 2: INVEST IN HARM MINIMISATION RESEARCH AND CLINICAL SERVICES

Prioritising law enforcement over public health and harm minimisation is outdated and ineffective. Presently, NSW focuses primarily on regulation and enforcement to address substance-related risks at music festivals. This can be seen in the policing costs outlined above.

The view that drug use is primarily a law enforcement matter, rather than a public health issue, is not in keeping with contemporary expert advice and research.⁶ Additionally, Australia’s National Drug Strategy (2017-2026) emphasises the need to balance law enforcement with health/harm minimisation, noting a “national commitment to harm minimisation through balanced adoption of effective demand, supply and harm reduction strategies.”⁷

⁴ NSW Health (October 2023), *Guidelines for music festival event organisers: music festival harm reduction*

⁵ [Inquest into the death of six patrons of NSW music festivals](#)

⁶ Meadows, E., Kizimchuk, Z., O’Reilly, J., Bartkowiak-Théron, I., Varney, S. (2022). *Moving Beyond the War on Drugs? The Rhetoric and Reality of Harm Minimisation in Australia*. https://doi.org/10.1007/978-3-030-83913-0_12

⁷ NSW Health (2017), *National Drug Strategy 2017-2026*

The 2019 Inquiry also called for a more balanced approach to festival health and safety in NSW. It found that heavy police presence, particularly at entry points, can lead to “panic ingestion or dangerous pre-loading”. The Inquiry made numerous recommendations, including:

- medically supervised pill testing/drug testing at music festivals in NSW
- establishment of a permanent drug testing facility
- drug policies that are evidence-based and focused on minimising harm to users, including through targeted education programs and redefining illicit drugs as primarily a health and social issue, rather than primarily a law enforcement issue
- training for police operations at music festivals, with the instruction that operations should be concentrated on organised drug dealing and social disorder rather than punitive action against people in possession of drugs for personal use.

The Act is currently weighted too heavily towards policing as opposed to harm minimisation. NSW would be more aligned with good practice, national frameworks and contemporary research if it replaced the Act with a more balanced approach. This should be delivered in partnership with relevant public health organisations and industry with the common goal of harm reduction, rather than law enforcement.

In the first instance, **LPA recommends that the NSW Government investigate evidence-based approaches to harm minimisation, including pill testing.** This approach is widely promoted by reputable sources, including the [Australian Medical Association](#), the [Australian Alcohol and Drug Foundation](#), and the [Australian Medical Students Association](#).

Pill testing specifically is available in the ACT, Queensland, New Zealand and 20 countries across Europe and the Americas.⁸ Pilots carried out at Groovin the Moo Festival in Canberra found benefits to this approach, including:

- patrons discarding the substances they possessed upon learning about potential harms (including seven dangerous substances containing *N*-ethyl Pentylone)
- distribution of health warning and safety information
- feedback from patrons that they would reconsider or take less of the substances they had in their possession.⁹

RECOMMENDATION 3: INVEST IN CENTRALISED MEDICAL AND POLICING OPERATIONS

As detailed above, excessive policing is costly and can have unintended negative consequences – particularly if it is not balanced with health-focused approaches. However, LPA acknowledges the importance of adequate medical and policing resources for festivals.

LPA recommends that NSW invest in improvements to the management of police and emergency services resources, rather than simply expanding the regulatory landscape. As noted in LPA’s 2019 submission (**Attachment 1**), centralised operations and despatching of resources is required to provide consistency and efficacy in addressing safety concerns at large-scale events.

⁸ [Pill testing in Australia - Alcohol and Drug Foundation \(adf.org.au\)](#)

⁹ Pill Testing Australia (August 2019), *Report on the 2nd ACT GTM Pill Testing Pilot: a Harm Reduction Service*

There should be a closer integration of NSW Police with festival event control centres. The current practice is that police establish their own event control centre in addition to those set up by the festival organiser, which are also staffed by a range of government agency representatives.

RECOMMENDATION 4: MAINTAIN THE MUSIC FESTIVALS ROUNDTABLE

LPA agrees that, regardless of whether the Act remains in force, the Music Festivals Roundtable is the most appropriate arrangement for an effective working relationship between Government and industry.

In line with AFA's submission, LPA also recommends that the membership be expanded to include an Emergency Services representative (FRNSW, SES and RFS), the 24 Hour Economy Commissioner and a representative of Dancewize NSW.

RECOMMENDATION 5: NSW HEALTH AS THE RELEVANT AUTHORITY

If the Act is to remain in force, LPA maintains that Liquor & Gaming NSW is not the most appropriate lead agency. This was previously raised in LPA's 2019 submission (**Attachment 1**).

NSW Health already provides valuable advice to festival organisers and has the in-house expertise required to address complex health and safety risks at festivals. As such, **LPA recommends that NSW Health be resourced to approve Safety Management Plans under the Act, rather than the Independent Liquor & Gaming Authority (ILGA).**

An alternative approach could be to require all festivals to complete a Medical and Harm Reduction Plan that must be provided to NSW Health upon request. A template could be provided to assist with this process.

ABOUT LIVE PERFORMANCE AUSTRALIA

LPA is the peak body for Australia's live arts and entertainment industry. Established over 100 years ago in 1917 and registered as an employer organisation under the *Fair Work (Registered Organisations) Act 2009*, LPA has nearly 400 Members nationally. We represent commercial and independent producers, music promoters, performing arts companies, venues (performing arts centres, 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.

ATTACHMENT 1

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

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.

LPA EXECUTIVE COUNCIL

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