
Review of the *Music Festivals Act 2019*

Final report

April 2024

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1. Executive summary

The Music Festivals Act 2019

The *Music Festivals Act 2019* (the Act) commenced on 21 November 2019. The Act's primary objectives are to support festival organisers in running safer events and ensure that the government allocates public resources effectively by focusing on festivals that are higher risk.

This review of the Act has been conducted to:

- determine whether the objectives of the Act remain valid,
- determine whether the terms of the Act remain appropriate, and
- highlight any unintended consequences of the Act.

Since the Act was introduced, the NSW Government has confirmed its commitment to revitalising the live music sector, and “re-opening” NSW to live music safely. This focus on live music is relevant when assessing whether the objectives of the Act remain appropriate.

Liquor & Gaming NSW has undertaken this review on behalf of the Minister for Music and the Night-time Economy who is responsible for administering the Act. A range of industry, community and advocacy, and government stakeholders were consulted during the review.

The review largely relied on this consultation to understand the issues facing the sector. Feedback from stakeholders was tested against available data on the licensing of festivals and safety. The review then identified findings and options that the Government may seek to address in any subsequent amendments to the regulatory framework.

The impact of the Act on the viability of festivals

Throughout the consultation process, stakeholders indicated that the regulatory framework is having a significant impact on the viability of festivals to operate in NSW. The regulatory burden on festivals in NSW is seen as out of step with other Australian jurisdictions.

Industry stakeholders believe that the Act only partially serves its intended purpose, which is to create safer events. They acknowledge that aspects of the regulatory requirements placed on higher-risk festivals have assisted industry operators in mitigating harm at music festivals. However, the framework is having a range of unintended consequences on the industry.

The review found that a subject festival determination imposes a higher regulatory burden on industry, such as through higher user-pays policing costs, user-pays ambulance and private medical provider costs. These costs are reported to negatively impact the economic viability of hosting festivals in NSW. Whilst user-pays policing is not governed under the Act and is outside the scope of the review, it is relevant when discussing the economic viability of festivals.

Industry stakeholders were also of the view that the subject festival label carries with it a reputational burden, which can serve as a red flag to the public and other organisations that subject festivals are unsafe and linked to illicit drug use. According to these stakeholders, the resulting stigma has reduced ticket sales, damaged brand value, and resulted in lost commercial sponsorships and investment opportunities.

The review also identified other challenges having a significant impact on the commercial viability of the sector. These include:

- the impact of COVID-19 on the music festival industry
- shifts in going-out behaviours, and
- consumer behaviour, including patron ticket purchasing patterns.

Stakeholders did indicate that safety operations and best practice across music festivals have improved since the Act's introduction. This has been brought on by improved onsite medical resources, increased harm reduction measures and enhanced collaboration between festival organisers and government.

However, stakeholders have indicated that there may be scope to reduce regulatory burden while maintaining these safety improvements. Industry submitted that the advancements in safety were primarily attributed to the involvement of the NSW Ministry of Health. Specifically, the advice, education, and support provided to organisers when engaging private medical providers.

Stakeholders generally supported the health-related aspects of the framework, which were identified as crucial in mitigating health-related incidents at festivals and assisting festival operators. However, differing opinions were expressed regarding other aspects of the regulatory framework, particularly aspects of the framework that go beyond medical and harm reduction.

Questions were also raised in relation to the appropriateness of certain government agencies responsible for functions under the Act, including the Independent Liquor & Gaming Authority as lead decision-maker, and Liquor & Gaming NSW and NSW Police Force as enforcement agencies for the Act. A number of stakeholders recommended that NSW Health would be a more suitable authority for decision-making and enforcement under the Act.

Reducing the regulatory burden and maintaining safety

The review found there are opportunities to reduce the regulatory burden on festival organisers while maintaining the safety-related gains achieved since the Act's inception. The regulatory approach in NSW has resulted in a burden that is considerably greater than in other national and international jurisdictions. Excessive regulation is also counter to the Government's commitment to support live music when it is safe to do so.

A focus on streamlining the administrative aspects of the regulatory framework, while maintaining or strengthening the existing focus on health, could reduce the regulatory burden.

The review also found that clarification of the objectives in the Act could improve outcomes. This additional clarity would support regulatory decisions that better reflect the Government's policy goals and the expectations of the community.

The review identified duplicative features of the regulatory frameworks that govern music festivals in NSW. These features often involve the same agencies providing advice at multiple stages. For example, when festival organisers submit a development application, liquor licence application and safety management plan application, some agencies provide input into each of these processes.

This requires festival organisers to submit the same types of plans through various processes and increases the cost and effort to the business, it also increases the burden on Government agencies.

1. Introduction

Background to the Act

The Act was introduced in 2019 following a series of deaths and critical health-related incidents at music festivals in NSW. The Act established a new regulatory framework for music festivals, with the primary legislative function to empower the Independent Liquor & Gaming Authority to require higher-risk music festivals (subject festivals) to operate with an approved Safety Management Plan. Although section 21 of the Act includes a regulation-making power, the Act currently has no subordinate legislation.

Previous review of the Act

In 2020, an interim review of the Act found that while there was general support for its improved safety measures, the period assessed was insufficient to draw any comprehensive conclusions about its effectiveness, particularly given the impact of Covid-19. The interim review led to the development of the *Customer Service Legislation Amendment Act 2021*, which included administrative changes to the Act. The interim review can be found on the [NSW Parliament Website](#).

Regulation of festivals

Music festivals are regulated by several different state and local regulators, depending on the issue. Regulators include:

- Local councils: development consent for the festival, including plans for traffic, food/water, signage, safety and security, and other requirements
- Liquor & Gaming NSW and the Independent Liquor & Gaming Authority: administering the Music Festivals Act 2019 as well as the liquor licencing framework (if the festival sells or supplies liquor)
- NSW Health: requirements set out by the Music Festival Harm Reduction Guidelines
- NSW Ambulance: user pays ambulance services
- NSW Police Force: user pays policing services
- NSW Fire & Rescue and NSW Rural Fire Service: emergency and incident planning
- SafeWork NSW: Work Health & Safety legislation requirements and emergency and incident planning.

In addition to their stand-alone roles, a number of these regulators also have a role within the Act itself and within the Music Festivals Roundtable. These additional layers of regulation contribute to the complexity of the regulatory framework.

Approach to the review

Section 20 of the Act requires that it be reviewed five years after commencement to ensure its purpose is appropriate and its provisions achieve that purpose. The NSW Government brought forward this review, to ensure the Act is operating as intended and to highlight any unintended consequences of the regulatory framework. The decision to bring forward the review was made in the context of the NSW Government's commitments to support vibrancy, live music and culture in NSW.

Terms of reference

This review examined whether:

- the policy objectives of the Act remain valid, and
- the terms of the Act remain appropriate for securing the objectives.

Approach to the review

The review commenced on 18 October 2023 with the release of a consultation paper to key stakeholders. The consultation period concluded on 8 January 2024. During this period, Liquor & Gaming NSW received 11 written submissions and undertook seven interviews with targeted stakeholder groups. Thirteen stakeholders provided feedback to the review – three festival sector stakeholders (including the Australian Festivals Association on behalf of its members), two community & advocacy organisations, and eight government agencies (see **Appendix A** for a complete list).

To assist the review, Liquor & Gaming NSW also examined other jurisdictions' music festival-related legislation, considered contemporary factors affecting the music festival industry in NSW, and analysed data from NSW Health, NSW Police Force, and Liquor & Gaming NSW.

2. Objectives of music festival policy

The policy objectives of the Act

A key focus of this review is to assess whether the intent of the Act remains valid. The objectives are not specifically included in the Act itself. However, the following objectives were stated in the second reading speech of the introduction of the Bill to NSW Parliament:

- support a well-coordinated approach when planning for music festivals
- 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 world’s best practice advice from clinical and public safety experts
- ensure that the Government is able to allocate public resources effectively
- hold festival operators accountable for running safer events
- make sure that there are adequate medical personnel on site, and
- 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.

These objectives reflect the key issues facing music festivals in 2019 and are focused on the safety of these events. As part of this review, additional consideration needs to be given to issues facing the sector at present. Lingering COVID-19 impacts, coupled with shifts in going-out and other consumer behaviours has had a significant impact on the festival sector. This includes changes in patron ticket purchasing patterns. Since 2019, the music festival sector has faced these and other challenges relating to its commercial viability, yet this is not captured in the objects identified in 2019.

The NSW Government has stated publicly its concern with the financial viability of the sector and its prioritisation of live music in NSW. Including an objective that addresses these concerns could support this effort and would better reflect the issues facing the industry in 2024.

Several stakeholders supported this addition, as well as the continued focus on safety. A common view was that the objectives of the Act should provide more focus on:

- harm reduction
- the positive benefits of music festivals in NSW, and
- the sustainable development and growth of the sector.

Along these lines, one stakeholder suggested adding an objective to deliver safer music festivals whilst not adding unnecessary barriers and costs to industry. These stakeholders also generally advocated for those changes to better reflect the Government’s position around reviving live music and reducing costs for festival operators in line with other states. They submit that the current policy objects fail to adequately acknowledge the economic contribution of music festivals to the economy and community.

Based on this, the review finds that the regulatory framework would benefit from a closer focus on harm reduction, industry sustainability, and ensuring costs for festivals in NSW are at a level comparable to other states, while still prioritising health and safety at festival events.

Additionally, the review finds that explicitly stating the objects into the Act will assist in creating a clearer, uniform understanding of its scope and ensure alignment between the Act's intent and how its terms are applied.

3. Regulatory roles and responsibilities

In NSW, regulation of music festivals is shared across several agencies, including NSW Health, NSW Police, L&GNSW, the Independent Liquor & Gaming Authority, local councils and others. Each agency has its own roles and responsibilities, with certain aspects of regulation shared between agencies.

In any regulatory framework with these characteristics, there is a risk of duplication and inefficiency. This can increase the regulatory burden on industry and impose unnecessary costs on the hosting of festivals in the state. The section below outlines the regulatory framework in NSW and compares it with other jurisdictions.

Roles and responsibilities in NSW

The table below outlines the areas of responsibility for various NSW Government agencies. Not only is there a large number of regulatory bodies involved, but even individual components of the regulatory effort are often shared by multiple agencies.

Agency	Role & Responsibility
Independent Liquor & Gaming Authority Liquor & Gaming NSW	<ul style="list-style-type: none"> • Early notification process
	<ul style="list-style-type: none"> • Safety Management Plans
	<ul style="list-style-type: none"> • Liquor Licence
NSW Health	<ul style="list-style-type: none"> • Music Festival Harm Reduction Guidelines
	<ul style="list-style-type: none"> • Safety Management Plans (advice and reviewing medical rosters and medical resourcing)
NSW Ambulance	<ul style="list-style-type: none"> • User pays ambulance services
NSW Police Force	<ul style="list-style-type: none"> • User pays policing services
	<ul style="list-style-type: none"> • Safety Management Plans (advice and compliance)
	<ul style="list-style-type: none"> • Crowd Management Plans
	<ul style="list-style-type: none"> • Liquor Licence applications (advice and determining relevant conditions for the sale and supply of liquor at events)

	<ul style="list-style-type: none"> Development Applications for events (providing advice to Local Councils)
NSW Fire & Rescue and NSW Rural Fire Service	<ul style="list-style-type: none"> Emergency and incident planning
SafeWork NSW	<ul style="list-style-type: none"> Emergency and incident planning
	<ul style="list-style-type: none"> Managing Work Health & Safety at events
Local Councils	<ul style="list-style-type: none"> Development Application
	<ul style="list-style-type: none"> Other requirements (depending on location and event scale)

Music Festival Roundtable

Part 4 of the Act establishes the Music Festival Roundtable. The goals of the Music Festival Roundtable are to:

- strengthen government and industry relationships
- share information about subject music festivals before and after they are held, and
- address members' priorities.

The Roundtable also provides a forum for the review of regulatory schemes relevant to music festivals and provides advice to government and industry on best practice for the safe operation of music festivals.

The Act and the Minister set the membership of the Roundtable, which includes a mix of industry and government representatives. The Roundtable is co-chaired by a representative of Government chosen by the Minister and a representative chosen by industry. Roundtable meetings must be held four times a year, with at least one meeting held at a music festival site.

Each of the agencies responsible for music festivals listed above, apart from SafeWork NSW are members of the Roundtable or are represented by a relevant peak organisation. This is in addition to them holding the regulatory roles outlined in the table.

The review undertook a jurisdictional analysis that found that a statutory requirement for roundtable-style groups in music festivals or related sectors is uncommon. For more information on stakeholder views and the appropriateness of the Music Festival Roundtable please refer to section 9.

Subject festival framework

Subject festivals are music festivals that the Independent Liquor & Gaming Authority has determined present a higher risk to patron safety and would be more appropriately delivered with an approved Safety Management Plan.

The overarching consideration when determining whether a festival is a subject festival is the health, safety and wellbeing of festival patrons and the community. Section 5 of the Act provides the criteria that the Authority may consider when determining whether a music festival is a subject festival:

- advice from NSW Police Force
- advice from NSW Health
- advice from the festival organiser
- advice from the Music Festival Roundtable
- health incidents that occurred in connection with the festival over the last three years, including drug-related incidents and deaths (i.e., 'prescribed events')
- event-specific matters, such as attendance demographics, expected patron attendance, duration, location, weather, and
- compliance with previous Safety Management Plans and history of delivering safe events.

A more detailed list of matters is outlined in the [Subject Festivals Guidance Fact Sheet \(FS FS3167\)](#). However, these matters for consideration are neither mandatory nor constrained. Festival organisers are able to respond to all information provided to the Independent Liquor & Gaming Authority before a determination on festival status is made.

As of 2023, the Independent Liquor & Gaming Authority considers each individual occurrence of a festival as a separate event for the purposes of determining whether it is a subject festival.

For more information on stakeholder views and the effectiveness of the subject festival framework please refer to section 7.

Safety Management Plan

Under the Act, subject festivals are required to prepare and implement an approved Safety Management Plan. The information required to be captured under a Safety Management Plan must be provided by the event organisers in consultation with NSW Health, NSW Ambulance, NSW Police, Liquor & Gaming NSW and any other relevant stakeholder.

The legislated requirements for the contents of a Safety Management Plan are included in [Section 6 \(1\)\(a\)-\(i\) of the Act](#), and are captured by the following four parts in the Safety Management Plan template, which is available [here](#):

- PART A: Event Overview
- PART B: Medical Plan
- PART C: Harm Reduction Plan
- PART D: Crime Scene Preservation and additional information.

Safety Management Plans usually include additional reports and plans not required by legislation, such as insurance documents, development consent applications, liquor licence application documents, water quality assurance plans, traffic management plans, noise management plans, alcohol management plans, and security plans. These additional documents are typically included at the request of government agencies providing advice on the plan.

Section 6 of the Act also requires submission of the Safety Management Plan to the Independent Liquor & Gaming Authority at least 90 days before the festival is to be held, or 60 days where an organiser has completed an early notification form.

For information on stakeholder views and findings on the effectiveness of Safety Management Plans please refer to section 6 of the report.

Other jurisdictions' legislation

The review examined music festival-related regulation across other Australian states and territories, as well as internationally. This review sought to assess whether the approach taken in NSW is inconsistent with other states and territories' approach to regulating festivals, and to what extent the approach taken in NSW is a proportionate regulatory framework for managing actual risks.

In general, NSW is unique in its approach to regulating festivals. Whereas most other jurisdictions have some comparable features to the NSW framework (such as liquor, planning and health regulation), the heightened administrative requirements for 'subject festivals', such as those set out in the Act, are not replicated as comprehensively elsewhere. The review finds that the approach taken in NSW has resulted in a regulatory burden that is considerably more significant than in other national and international jurisdictions.

For most states and territories, higher-risk public events are managed by the relevant local government, with support from their health department. For example, in Western Australia (WA), the health department's guidelines for events prescribe several plans to assist approving authorities and emergency responders in allocating appropriate resources. The guidelines highlight that an additional 'Risk Management Plan' and 'Emergency Management Plan' are required for medium and high-risk events.

In Victoria and the Northern Territory, the local government is responsible for determining the risk category for a public event, including music festivals, and the relevant plans and permits needed for approval. Victoria's regulatory framework has an additional level of regulation, which is that private medical providers must be licensed under the *Non-Emergency Patient Transport and First Aid Services Act 2003*.

In Queensland, organisers of music festivals must apply to the Office of Liquor and Gaming for a permit to sell or supply alcohol at a public event such as a music festival. During the licensing application process, if the Commissioner for Liquor and Gaming (Qld) deems a public event 'high-risk', standard conditions and any site-specific conditions may be imposed on the licence. Several factors contribute to the Commissioner's assessment of 'high-risk' events, including patrons' age and demographics, event type and nature, length and time of the event, compliance history and patron numbers.

In contrast to NSW, music festivals in the UK are not generally categorised by risk, type, size or style. In the UK, event organisers and others involved in the delivery and management of the event retain the principal legal duties for ensuring public safety and solely retain full responsibility for that music festival. The safety conditions to operate a music festival are usually incorporated into the liquor licence for the festival.

4. Safety of festivals since 2019

The 2019 music festival reforms were heavily focused on addressing critical safety issues facing the industry at the time. As part of this review, L&GNSW has examined the impact of these reforms on safety outcomes since that time. Overall, safety gains have been observed across the sector since 2019.

This is driven by improvements in safety management practices across music festivals. The requirements under the Act have brought about some of these improvements, and others were self-initiated by industry but not required under the Act.

For example, improvements in harm reduction measures at festivals and improvements in onsite medical resources are critical improvements required by the Act. At the same time, it was also identified that industry has self-improved its safety standards and recognised best practice processes across the sector, which at times go beyond the requirements under the Act.

In addition, since 2019, festival organisers in NSW have shown greater proactivity in addressing health and safety issues. Increased collaboration between industry, community, and government stakeholders has also enhanced problem-solving around emergent issues in the music festival space.

Stakeholders primarily attributed the progress within the industry toward safer music festival operations to the involvement of NSW Health. Specifically, the advice, education, and support provided to organisers when engaging private medical providers and the guidance provided in the music festival guidelines developed by NSW Health.

Improvements in health outcomes

L&GNSW analysed data from festivals since 2019 to confirm whether the feedback from stakeholders is consistent with the available data. L&GNSW examined the rates of critical health incidents at higher-risk festivals in NSW between 2018/19 and 2022/23.

Based on the data reviewed, some clinical health incident categories declined over the time period, including:

- urgent transports to hospital
- transports likely drug-related, and
- onsite critical care.

Additionally, the yearly number of deaths associated with higher-risk music festivals decreased by 4-5 cases compared to before the Act was introduced.

The number of health incidents across various categories has decreased since the Act commenced. This would indicate that the regulatory framework has achieved its intent of improved safety at festivals. However, the influence of external factors effects the reliability of the data and prevents definitive conclusions on the impact of the Act on reducing these incidents. These external factors include:

- the COVID-19 pandemic
- climate events (i.e., heatwaves, bushfire, flooding), and
- changes to when and where certain events are held each year.

In addition, reporting practices have evolved since the Act was introduced, and therefore, data for the earlier years may have lower accuracy.

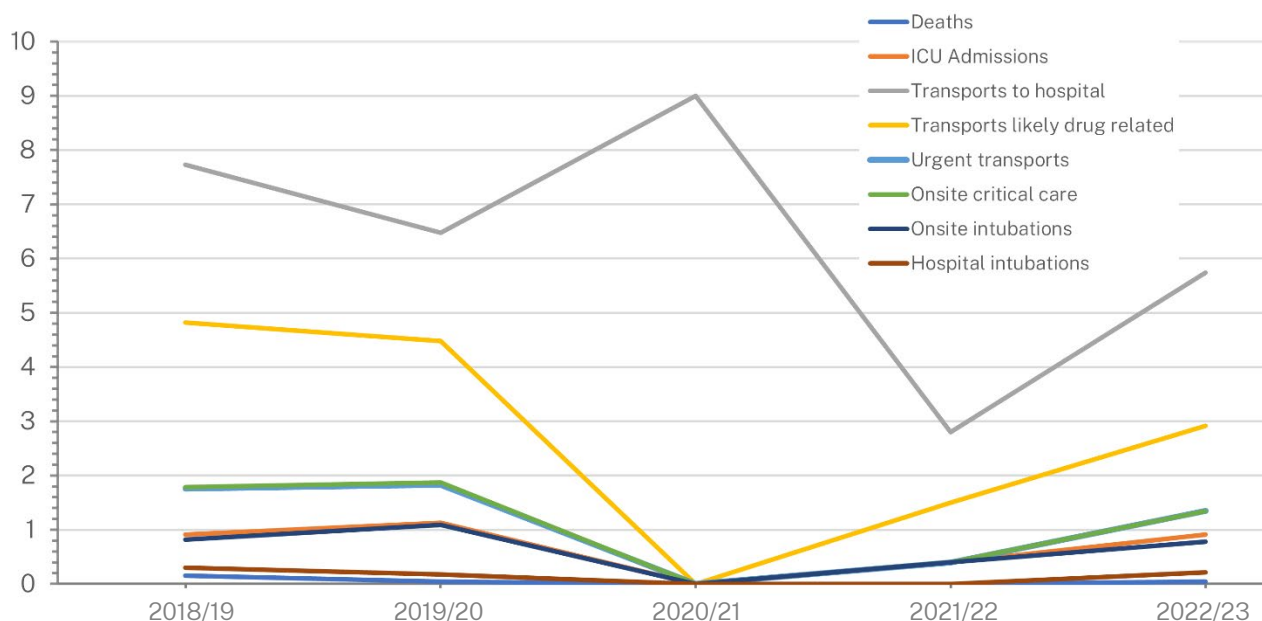
Although the data suggests there is an association between the introduction of the Act and the reduction in the rates of critical health incidents linked to higher-risk music festivals in NSW, due to the COVID-19 pandemic and extreme weather events, we cannot definitively attribute improvements to the 2019 reforms. However, when combining the decrease in these incidents with the feedback from stakeholders, it is reasonable to assume that the reforms have been successful in improving safety at festivals.

Table 1: Total health incident figures across all higher-risk music festivals

Category	2018/19	2019/20	2020/21	2021/22	2022/23
Centrally coordinated events	33	23	1	10	23
Deaths	5 (.15)	1 (.04)	0 (.00)	0 (.00)	1 (.04)
ICU* admissions	30 (.91)	26 (1.13)	0 (.00)	4 (.40)	21 (.91)
Transports to hospital	255 (7.73)	149 (6.48)	9 (9.00)	28 (2.80)	132 (5.74)
Transports likely drug-related	159 (4.82)	103 (4.48)	0 (.00)	15 (1.50)	67 (2.91)
Urgent transports	58 (1.76)	42 (1.83)	0 (.00)	4 (.40)	31 (1.35)
Onsite critical care	59 (1.79)	43 (1.87)	0 (.00)	4 (.40)	31 (1.35)
Onsite intubations	27 (.82)	25 (1.09)	0 (.00)	4 (.40)	18 (.78)
Hospital intubations	10 (.30)	4 (.17)	0 (.00)	0 (.00)	5 (.22)

Guidance notes* ¹

Figure 1: Average number of health incidents at a festival



Guidance notes²

¹ *ICU = Intensive Care Unit.

Average incidents per festival are in brackets. Festivals included in the sample are those NSW Health determined represent an elevated health risk or the Independent Liquor & Gaming Authority have determined as a subject festival (formerly a high-risk festival) after the Act was introduced.

² Average number of health incidents per higher-risk music festival in the 2018-19 to 2022-23 financial years. Note. figures for 2020/21 are based on only a single subject festival event which occurred during this period.

Changes in violent incidents since 2019

NSW Police Force data showed a 41% increase in the average number of total assaults linked to music festivals between 2019 and 2022/23. The increase was found for assaults where there were no police present or involved rather than assaults where police were physically at the scene. This finding contrasts with the decreased numbers observed for health-related incidents.

While the introduction of the Act has not resulted in a reduction of assaults since 2019 as it has for health-related incidents, it is not clear that this is a failure of the reforms. For instance, this could reflect an increase in the reporting of assaults as a result of the reforms or the increased police presence at music festivals.

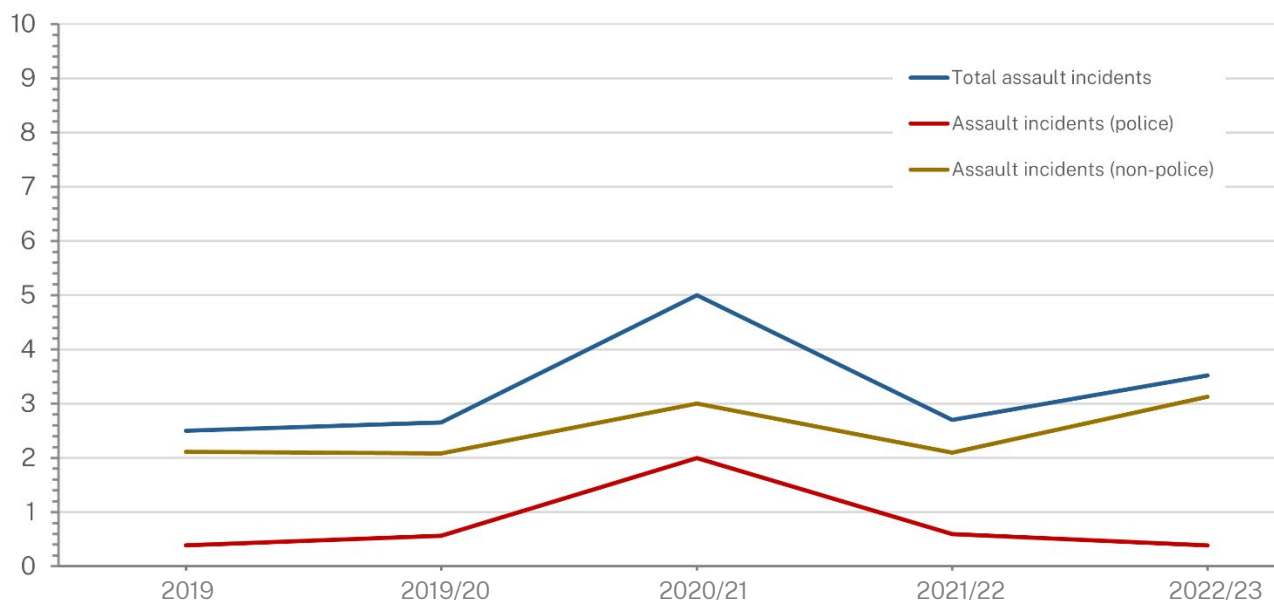
This data is significantly limited as it does not provide any information as to the cause or severity of these incidents. As a result, it is difficult to draw conclusions about the success of the reforms as is the case with health-related incidents.

Table 2: Total assault incident figures across all higher-risk music festivals

Category	2019*	2019/20	2020/21	2021/22	2022/23
Assaults (no police involvement/presence)	38 (2.11)	48 (2.09)	3 (3.00)	21 (2.10)	72 (3.13)
Assaults (police involvement/presence)	7 (0.39)	13 (0.57)	2 (2.00)	6 (0.60)	9 (0.39)
Total assaults	45 (2.50)	61 (2.65)	5 (5.00)	27 (2.70)	81 (3.52)

Guidance notes*³

Figure 2: Average number of assault incidents at a festival



Guidance notes⁴

³ *Incident data only available from 01/01/2019, including 18/33 festivals during the 2018/19 period. The methodology used to link assaults to music festival events is not precise, with a high likelihood of overreporting.

⁴ Average number of assaults per higher-risk music festival from 2019 (01/06 to 30/06) to the 2022-23 financial year. Note. figures for 2020/21 are based on only a single subject festival event which occurred during this period.

5. Regulatory burden on festivals

A recurring theme in discussions with stakeholders, correspondence to the Department, and media coverage of the sector is the cost of hosting festivals in NSW. In particular, that these costs are significantly higher in NSW than in other states and territories. While out of scope of this review, the cost of user pays policing was of specific concern to stakeholders.

Consultation with stakeholders saw the regulatory burden on festivals as a critical issue. Excessive regulation is also counter to the Government's commitment to support live music when it is safe to do so.

Importantly, industry and other stakeholders believe that the progress made to date to improve safety can be maintained while reforming the Act to reduce regulatory burden.

Costs of policing associated with operating a festival

Data provided during the review highlighted significantly higher costs in NSW, including significantly higher costs for user-pays policing in NSW as compared with other states and territories.

User pays policing in NSW is a cost-recovery policy where policing services such as crowd and traffic control, and public order are provided by the NSW Police Force (NSW Police) at special events in NSW, such as music festivals. NSW Police are responsible for determining which events require user pays policing, and how many police are required for each event.

The user pays policing policy, as set by NSW Police, requires music festival organisers to financially reimburse NSW Police for the policing services provided at their festivals, which they deem would fall outside the scope of typical community policing duties.¹ More information on the user pays policing service policies can be found here:

https://www.police.nsw.gov.au/online_services/user_charges_user_pays_policing_services

Industry provided supporting evidence to the review about costs associated with the same festivals (or similar) operating across multiple states and territories. In the evidence provided, similar festivals held both in NSW and another state or territory, with similar attendance numbers, had a significantly higher cost of operation in NSW. A large proportion of these increased costs was the component of user pays policing services, which subject festival organisers were required to pay in NSW.

Generally, festivals are required to cover the cost of user pays policing in other jurisdictions, but those costs are usually lower, or the number of police required are less. In part, this may be due to the policing requirement being determined by an authority outside of the Police itself, or because there are avenues to appeal or waive the costs of user-pays police services. In Victoria, in certain instances, event organisers can apply for a waiver of police charges if the police costs threaten the viability of their event. Industry has raised significant concerns that there is a limited justification for the higher policing costs in NSW as compared to other states and territories.

User pays policing is not governed by the Act and is out of the scope of this review. However, it is relevant to the commercial viability of the sector. Stakeholders confirmed that the cost of policing is a key driver of costs for festivals.

Industry feedback indicates that the substantially higher user paid policing costs in NSW have prompted some festival organisers to either relocate their events to other states or territories or contemplate doing so. Therefore, options to reduce the cost of policing would be welcome.

Options to reduce the cost of policing at festivals

An approach that provides external oversight or waivers on the costs of policing services may be a reasonable option to reduce these costs. NSW could consider adopting an appeal mechanism similar to that used in Victoria. Festival organisers in Victoria who argue that the imposition of user-pays policing costs threaten the viability of their event or its staging in Victoria, can appeal to have the costs waived entirely. Event organisers can apply for a waiver by completing an application, which is assessed by the Victorian Police's Chief Financial Officer⁵.

Another potential approach could be for agencies such as NSW Police to factor in the costs associated with festivals centrally within NSW Police and as part of their annual budget process, as opposed to being determined on a case-by-case basis for each festival and being determined by each Police Area Command. This approach would only be feasible for those events where the policing requirements could be determined well in advance.

Other regulatory costs

Separate to user-pays policing costs, the review highlighted numerous other cost burdens faced by industry within the existing regulatory framework.

Industry-provided data on user-pays costs highlighted discrepancies between NSW and other Australian jurisdictions not only for policing services but for ambulance and private medical providers. The data indicates that user pays ambulance and medical services are consistently higher in NSW compared to Victoria, Queensland, South Australia, and Western Australia, for touring festivals with similar patron attendance. However, the discrepancy in user pays costs between NSW and other jurisdictions is not as large for ambulance and private medical as it is for police services.

In addition to user pays costs, festival organisers provided submissions to the review regarding other costs associated with accommodating government agencies onsite at music festivals, including the provision of larger medical marquees and marquees to host police searches of patrons.

The overlapping roles and responsibilities described in Section 3 has created duplication of effort across regulatory agencies, leading to administrative inefficiencies and increased costs to Government and industry. Some examples of this include:

- multiple submissions and conflicting advice from agencies to inform subject festival determinations and safety management plan approval
- inclusion of information and documentation as part of the Safety Management Plan that is more relevant to liquor licence applications and planning approvals, and
- duplication of incident reporting requirements under the Act and other legislation including the Liquor Act 2007.

Additional resources are required to meet these overlapping requirements which is a non-recoverable cost to taxpayers and festival organisers.

⁵ Victoria Police 2024, *Events*, <https://www.police.vic.gov.au/events>

Other costs associated with hosting a festival

The festival sector was significantly impacted by the COVID-19 pandemic, which resulted in the cancellation and postponement of music festivals across NSW. The industry has observed a shift in consumer behaviour since the pandemic, including changes in patron ticket purchasing behaviour and going out behaviour, which is yet to stabilise.

During the review, industry stakeholders highlighted the escalating costs associated with operating a music festival outside of the regulatory framework. For example, general cost increases, as well as operational, touring, and production costs. There have also been significant increases in insurance premiums, coupled with workforce shortages. Industry reported that this has led to 30-40% increased cost across every line item of festival budgets.

Due to these higher costs, combined with uncertain market conditions, industry reported finding it extremely difficult to conduct a financially viable music festival in NSW.

Minors at festivals

In NSW, neither the *Music Festivals Act 2019* nor the *Liquor Act 2007* expressly prohibit minors from attending music festivals. However, where event organisers intend to allow minors into planned festivals in NSW, their plans need to include strategies that minimise the risk of the sale and secondary supply of alcohol to minors. If alcohol is sold or supplied to a minor, significant penalties apply.

Where these plans do not include sufficient strategies, the Independent Liquor & Gaming Authority or NSW Police, may impose conditions on the licence to ensure any outstanding risks are mitigated. For example, requiring all patrons under the age of 18 to be accompanied and supervised by a responsible adult.

In addition, liquor licensing conditions generally only allow minors to roam music festival grounds unaccompanied when liquor is only sold and consumed within designated 'bar areas'. Alternatively, where an organiser is wanting patrons to carry liquor across the entire festival grounds, minors must generally be accompanied to enter the festival.

These rules are in place to address risks associated with minors obtaining secondary supply of alcohol, including the increased risk of minors becoming a victim of alcohol related crime. However, these rules quite often prevent music festivals from being operated as all-age events. Therefore, there may be an opportunity for the Government to consider amending this approach to align with other jurisdictions and to encourage the operation and promotion of safe and responsible events that cater to an all-age audience and patronage.

6. Safety management plans

Contents of the Safety Management Plan

Stakeholders generally supported the health-related aspects of the Safety Management Plan. Those aspects were identified as crucial in mitigating health-related incidents at festivals and assisting festival operators. Differing opinions were expressed regarding other aspects of the Safety Management Plan, specifically those aspects that go beyond medical and harm reduction concerns.

As a result, stakeholders had mixed views regarding:

- what should be included in Safety Management Plans
- the approval processes, and
- the name of the plan.

There were mixed views on whether non-health related issues covered by these plans, such as development consent, harm minimisation policies, and security information should remain. Some Government stakeholders supported this approach, albeit with better guidance given to organisers to direct them toward the specific agency with whom they should liaise for each section.

Other stakeholders recommended narrowing the focus of Safety Management Plans to include only sections that deal with management strategies for medical and harm reduction matters. Further, industry and community stakeholders proposed changing the term 'Safety Management Plan' to a 'Medical and Harm Reduction Plan' so it is more consistent with the health-focused intent of the Act.

In addition to the above, stakeholders generally advocated for the framework to focus more on health, as opposed to broader matters such as liquor, planning, security etc. As discussed in the heading entitled 'Regulation outside of the Act' there are a number of other regulatory arrangements that govern the operation of a music festival. These other frameworks sit in addition to the Act, and quite often involve the same agencies providing advice at multiple stages.

Throughout this report, instances of duplication of regulatory function have been identified. This increases the cost associated with meeting the obligations of an organiser under the Act. A streamlined approach to these plans could better focus them on health outcomes and remove some of this duplication. Importantly, agencies will still have input into the process, through other avenues (such as the DA or liquor licence).

The review supports refocusing and realigning the Safety Management Plan on health-related issues. Retaining the health-related elements would mean that the positive impacts of the Safety Management Plan requirement, which has in-part directly improved the safety outcomes at festivals across the sector since 2019, would be preserved and reinforced, while removing the unintended consequences that have occurred with the current requirement. These safety benefits are identified further in Chapter 4 'Safety of festivals since 2019' and include improvements in harm reduction measures at festivals and improvements in onsite medical resources at festivals.

The health-related components provided for by the current Safety Management Plan requirement are not provided for by any other regulatory mechanism. This means that without the Act's health-related requirements – there would be limited ability for NSW Health to be directly engaged with the sector in the scale that it is at the moment. This is not the case for the non-health related elements of the Safety Management Plan, such as those relating to liquor, planning and security. These non-health related matters are already addressed by other regulatory mechanisms, such as through liquor licensing applications and development consent applications, which are legislated by other Acts and administered by other regulators. Therefore, removing these additional elements would likely not have a material impact on the ability for the sector to continue to operate in a safe way.

This represents the greatest alignment with the intent of the Act and is supported by most stakeholders. Further, the review supports renaming the Safety Management Plan to a Medical and Harm Reduction Plan, and primarily retaining the medical safety aspects of the framework.

In relation to the contents of the plan, the review finds merit in ensuring there is flexibility in the requirements it sets out and finds it may be appropriate for the contents of the plan to be set out in guidelines rather than through the Act.

Approval timeframes for a Safety Management Plan

Under the Act, the Independent Liquor & Gaming Authority must approve a Safety Management Plan at least 14 days before an event. However, around half of the Safety Management Plan applications are submitted close to that deadline. This adds pressure on agencies to rapidly complete the assessments due to the 14-day timeframe prescribed in the Act.

Further, government stakeholders raised issues with the uncertainty of last-minute changes to an approved Safety Management Plan, which was described as a common occurrence. For example, Liquor & Gaming NSW is aware of festival organisers seeking formal approval for changes to an approved Safety Management Plan only days before the festival was due to be held. Last-minute changes can create considerable pressure on regulators, especially if staff with the required expertise and knowledge are unavailable to approve the changes.

Government stakeholders requested that the 14-day timeframe for the Independent Liquor & Gaming Authority to approve a Safety Management Plan be shortened to provide flexibility for applications submitted close to the deadline. Government stakeholders also suggested that operators should be charged a cost recovery fee in line with charges for liquor and gaming applications, as they require comparable processing times.

The review finds that the legislated timeframe for the Independent Liquor & Gaming Authority to approve a Safety Management Plan, at least 14 days before the festival is to be held, may add an unnecessary administrative burden on regulators when festival organisers submit late applications. If these timeframes are maintained, the application dates should be sufficient to allow regulators time to provide appropriate consideration prior to approval.

The review finds merit in creating more flexibility in the event of a late application, including establishing alternative and less onerous requirements or processes in place for aspects of a Safety Management Plan that may be prone to change (e.g., weather conditions or changes in medical rosters due to sick medical staff or reduced patron numbers).

However, it would be appropriate for any subsequent changes to a critical health requirement, such as the approved medical roster in the Safety Management Plan, to only be approved so long as they do not result in any loss of skill, experience and capacity of critical medical staff or the medical team as a whole.

In relation to a processing fee for festival organisers, there is merit to a cost recovery fee associated with late applications and/or late amendments to the Safety Management Plan, especially where these are not related to unpredictable events.

7. Subject festival framework

The appropriateness of determining music festivals as subject or not was a prominent theme throughout the consultation, with stakeholders having divergent views on whether the Act should separate festivals by their risk level.

In general, government stakeholders asserted that the existing subject festival framework is an effective framework to achieve the intent of the Act. However, industry and community stakeholders were critical of the binary subject versus non-subject categories because it applies to the event in its entirety and does not reflect the nuances of risk across different festival environments.

The main concern about the subject designation is the impact that the designation has on those festivals, including the higher operating costs, the associated higher user-pays policing costs, and the reputational impact associated with the designation. In addition, stakeholders also raised the lack of legislated support provided for non-subject festivals.

Decision-making process for subject festivals

Several stakeholders expressed confusion regarding the specific criteria used to assess a music festival's subject status. Some stakeholders also claimed that the determination process lacks transparency and leads to inconsistent outcomes.

Industry's perception is that subject determinations are heavily influenced by submissions from NSW Police, with most music festivals now being categorised as subject. An analysis of subject festivals as part of this review found that in most cases agency input on these decisions was consistent. In cases where agency views differ, there is no indication that NSW Police views carry any additional weight than agencies such as NSW Health.

As detailed earlier in this report, before a music festival can be delivered, the organiser is required to go through multiple stages of planning, approvals, and consultation – all with different decision makers, but generally the same stakeholders consulted. These processes include, but are not limited to:

- When a festival submits a development application to operate as a music festival, government agencies such as NSW Police are often involved and provide advice on associated conditions and plans for its operation. This engagement is usually facilitated by the local council.
- Festivals that operate with a liquor licence go through a separate process where regulators work with the licensee and festival organiser in relation to the associated conditions in place for the operation of the festival.

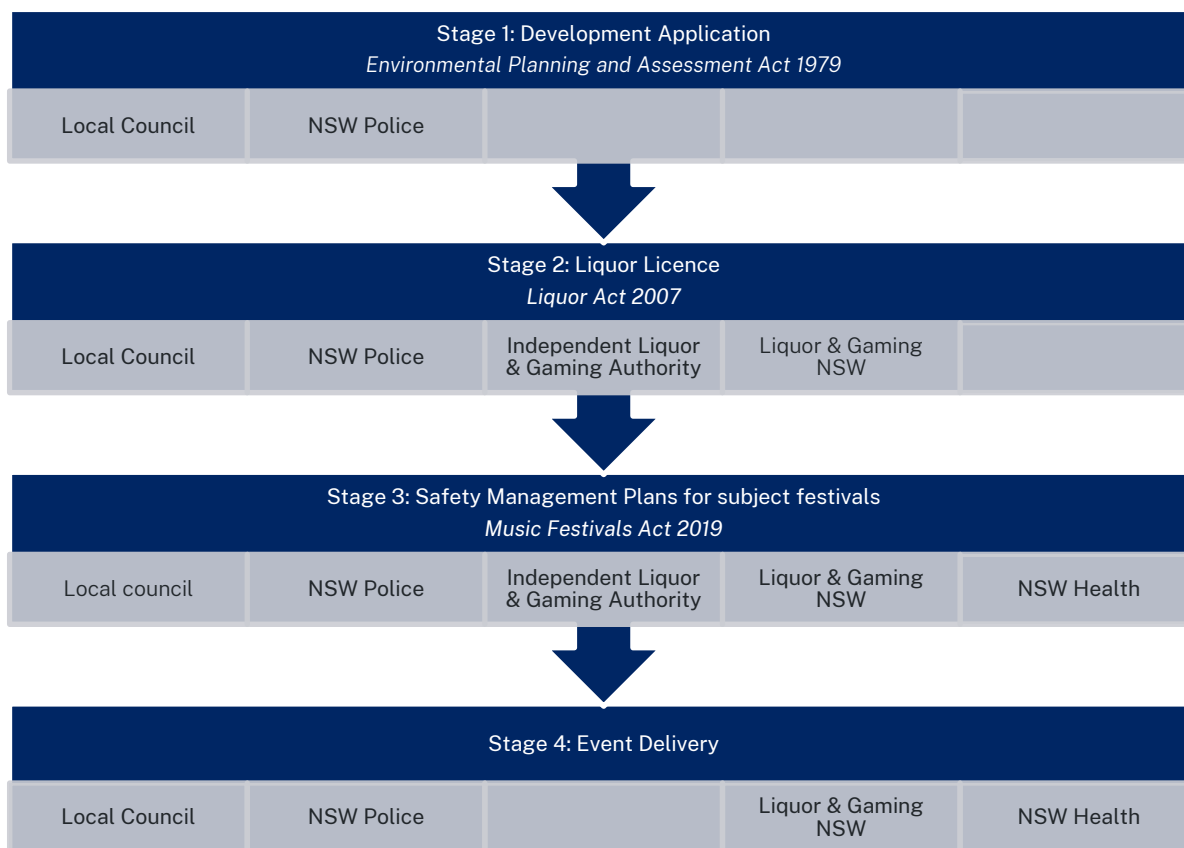
Each of these regulatory processes is designed to achieve a specific purpose by managing the specific risks associated with running a large-scale event. For example, when assessing a liquor licence application for a festival, Liquor & Gaming NSW is required to manage the specific risks associated with the sale and supply of liquor – including risk of anti-social behaviour, intoxication and minors obtaining alcohol. Similarly, local councils are tasked with providing subject matter expertise on local planning requirements and setting conditions that relate to the way events and businesses should be operated.

These processes can be lengthy and allow respective government agencies with multiple opportunities and mechanisms to impose requirements and conditions on the operation of festivals. For festivals that fall under the remit of the Act, the same government

agencies involved in earlier processes are also required to consider and impose conditions and restrictions on festivals while also requiring a wide range of documentation on the operation of the festival.

Diagram 1 outlines the various regulators involved in each stage of planning through to operation of music festivals in NSW.

Diagram 1: Agencies involved in decision making for music festivals in NSW



The review finds that these multiple steps can be duplicative and require government agencies to provide advice on similar matters in multiple forums, often addressing the same risks at each stage. There is therefore scope for these processes to be streamlined to reduce the regulatory cost on festivals without negatively impacting the safety of these festivals.

In particular, there is scope in considering whether other regulatory requirements such as liquor licensing matters or local council town planning matters are required to in fact be covered under the Act, especially considering they are separately addressed by other mechanisms which are more effective at managing the risks associated within those specific remits.

Agency responsible for determining subject festivals and approving the Safety Management Plan

The primary function of determining a festival as a ‘subject festival’ is to provide a framework for the decision maker to require the festival to be operated with a Safety Management Plan. Following submission of a Safety Management Plan application for a subject festival by a festival organiser, Liquor & Gaming NSW, NSW Health, and NSW Police complete an initial assessment of the Safety Management Plan, which informs the Independent Liquor & Gaming Authority’s decision regarding its approval.

Throughout consultation, concerns were raised by stakeholders about the

appropriateness of the Independent Liquor & Gaming Authority's role in maintaining its lead as decision maker under the Act to determine which festivals should be subject, and also in approving Safety Management Plans.

Industry and community group stakeholders submitted that the Independent Liquor & Gaming Authority, as a liquor and gaming regulator, does not possess the required knowledge and expertise to fulfil these functions. These stakeholders generally recommended that NSW Health would be a more suitable authority given the nature of the risks assessed and because the nature of subject festivals, and the contents of Safety Management Plans relate primarily to health issues. As an alternative arrangement, one submission suggested forming an independent committee to lead this component of the Act, with representation from experts in harm reduction, medical, risk management, festival, and event organisation.

To address the question of appropriate decision maker, this review canvassed alternate options, including NSW Health and Liquor & Gaming NSW taking over as decision maker, or a central NSW Government department such as The Cabinet Office or the Premier's Department.

NSW Health

During the review, industry and community groups and certain government stakeholders suggested that NSW Health would be an appropriate decision maker under the Act. Stakeholders argued that NSW Health would be a more suitable decision-maker, given the nature of risks assessed and because the nature of a subject festival, and the contents of Safety Management Plans relate mostly to health issues.

NSW Health already performs a number of functions under the Act, including undertaking a centrally coordinated approach to certain higher risk music festivals in NSW. NSW Health is also actively involved in the processes as set out by the Act, including providing advice to Liquor & Gaming NSW on the subject status of music festivals. It also provides support to festival organisers through the Guidelines for Music Festival Event Organisers⁶, which sets out advice for festival organisers in relation to:

- harm reduction event planning and messaging
- peer-based harm reduction programs
- and onsite medical service provision.

NSW Health also maintains a surveillance system of emergency department admissions and identifies when a person is known to have attended a festival prior to the visit. This surveillance activity means NSW Health can identify when a prescribed event has occurred in association with subject music festival.

Further, should the Safety Management Plan be reoriented to be solely health-focused, then NSW Health's engagement on the matter would be pivotal, given it holds the subject matter expertise for drug and health risks at festivals, and would be consistent with the health-focused intent of the Act. However, as NSW Health is not currently resourced to be the main decision maker under the Act, it would likely need additional resources to perform those functions.

Liquor & Gaming NSW

Another option raised by stakeholders was making Liquor & Gaming NSW the lead decision maker under the Act. Currently Liquor & Gaming NSW coordinates input across Government to brief the Independent Liquor & Gaming Authority on risk factors related to subject festivals and safety management plan applications. Liquor & Gaming NSW also currently approves, under delegation from the Independent Liquor & Gaming Authority:

⁶ <https://www.health.nsw.gov.au/aod/Publications/music-festival-guidelines.pdf>

- the non-subject status of lower risk festivals, and
- the subject status of certain festivals which have previously been determined subject and which consider they should be subject.

Further, Liquor & Gaming NSW has decision-making functions under various legislative instruments, including making determinations, issuing directions, carrying out inquiries, and imposing conditions on licences.

However, as with the Independent Liquor & Gaming Authority, Liquor & Gaming NSW is a liquor and gaming regulator and has limited expertise in health-related risks and issues at music festivals. It would therefore be reliant on advice provided by NSW Health for decision making under the Act. Also, similar to NSW Health, as Liquor & Gaming NSW is not currently resourced to be the main decision maker under the Act, it would likely need additional resources to perform those functions.

Central government agency

Making a central government agency the decision maker under the Act was also considered by the review. Central agencies within NSW Government generally coordinate advice to Ministers and Cabinet and coordinate whole-of-government strategies and policies. Although a central government agency may not have direct specific subject matter expertise in managing health-risks at music festivals, it would be in a strong position to effectively coordinate the advice and support of various government agencies around subject festivals.

Under the current music festivals regulatory framework, six separate agencies and local council are involved in the planning and approvals of a music festival. A central government agency would be reliant on its relationships with all agencies involved and focus on bringing all agencies together to effectively support the safe operations of festivals in NSW. Similar to other options considered, a central agency would likely need to rely on advice from NSW Health in any decision-making functions under the Act. Under this option, particular consideration would need to be given to the appropriateness of a policy or service delivery central government agency in taking on regulatory function.

Impacts of a ‘subject’ designation on the commercial viability of the sector

Industry, community, and certain government stakeholders submitted that the introduction of the Act has had a significant negative impact on the viability of music festivals in NSW. They argued that the subject festival label carries with it a reputational burden, which can serve as a red flag to the public and other organisations that subject festivals are unsafe and linked to illicit drug use. According to these stakeholders, the resulting stigma has reduced ticket sales, damaged brand value, and resulted in lost commercial sponsorships and investment opportunities.

Several submissions and interviews raised the concern that subject festival designations contribute to considerably higher costs on festival organisers in NSW for user pays police, private medical providers, and ambulance services. These responses claimed that user pays costs in NSW substantially exceed those in other jurisdictions, thus threatening the commercial viability of holding festivals in this State. It was even suggested that some music festival organisers were choosing to bypass NSW altogether due to non-viable commercial conditions in the State, although no specific events were named.

Certain stakeholders claimed that there lacks an evidence-based formula to support the current ratios of user pays police. Data provided by Liquor & Gaming NSW showed substantial variance in the ratios of total police at subject events to expected attendance (ranging between 1:78 and 1:41) and rostered versus user pays police (ranging between 5:1 and 1:18). For greater transparency and consistency of user pays services, industry stakeholders advocated for a publicly available matrix and a central point of contact rather than it being determined by the relevant police area command.

Some stakeholders also argued that the subject festival framework has reduced consumer experience at these events. It was reasoned that higher user pay costs has resulted in less money being invested into consumer experience and entertainment, with greater police presence at subject festivals creating a less appealing environment for attendees of subject events.

In relation to the subject designation, the review notes that the primary function of the designation is to provide a legislative basis for the Independent Liquor & Gaming Authority to require a festival to operate with a Safety Management Plan. In order to address some of the associated issues with a ‘subject’ designation, the review finds merit in removing the designation from the Act and simply providing the decision maker with a power to require a festival to be operated with a Medical and Harm Reduction Plan (to replace the Safety Management Plan), the contents of which would align with the health focus of the Act. This is somewhat similar to the Victorian model. Victoria’s Department of Health’s *Code of Practice for running safer music festivals and events* encourages festival organisers to liaise with local health and emergency services, who can conduct a formal risk assessment, and develop a response plan for dealing with significant medical problems should they occur.

Removing the subject festival designation would be a significant change to the regulation of festivals under the Act. While removing the administrative ‘red tape’ of the designation would likely reduce the reputational impact on festivals, it would also address concerns raised by the sector around whether a festival that is designated as ‘subject’ is to be considered to be ‘subject’ indefinitely. Most importantly however, the change would allow for the Act to operate in a way that is more case-by-case – as determined by the risks posed by each event and would assist in facilitating a more streamlined pathway for NSW Health to engage with the festival organisers – being one that primarily relates to health-requirements.

Expanding the Act to regulate non-subject festivals

As a suggestion raised by stakeholders during consultation, the review finds that expanding the Act to regulate all festivals, not only those that are higher risk, would likely overburden the government agencies currently supporting festival organisers. This could affect the support available for higher risk festivals under the Act. It is also inconsistent with the broader advice from stakeholders, regarding the excessive levels of regulation arising from the current framework.

Therefore, the review finds that the current framework which regulates only those higher-risk festivals is generally appropriate. This approach will ensure the continued intent of the Act to manage the safety of critical health incidents by focusing government resources on festivals with a higher risk of those incidents occurring.

The review notes that although non-subject festivals may fall outside the scope of the Act, there is still a requirement for those events to be held in conjunction with local planning and liquor regulations and that those festivals would likely benefit from additional engagement from NSW Health and health-based support services.

8. Enforcing the Act

Several stakeholders raised concerns about Liquor & Gaming NSW and NSW Police being the organisations responsible for enforcing the Act. These stakeholders claimed that Safety Management Plan inspections fall outside the scope of Liquor & Gaming NSW's core role – to ensure compliance with liquor licence conditions and the responsible service of alcohol. Some stakeholders further argued that the government agencies have obligations under other Acts that directly conflict with the harm reduction intent of the Act.

For example, requirements for licensees to evict intoxicated patrons from the licensed premises (generally the festival grounds) are often seen to contradict the Act's harm reduction focus to allow health staff at onsite medical services to provide ongoing care and supervision for festival attendees exhibiting signs similar to intoxication. According to these stakeholders, such conflicting priorities may also discourage patrons from seeking help at festivals due to fear of being evicted.

Various stakeholders also suggested that NSW Police may use the Act as an additional legal tool to censure festival organisers and events. Further issues were referenced with police entering the designated harm reduction and medical spaces to check Safety Management Plan compliance, as this practice directly conflicts with NSW Health's Guidelines for Music Festival Event Organisers⁷ and intimidates and distresses patrons under care.

Stakeholders critical of Liquor & Gaming NSW and NSW Police involvement generally agreed that this arrangement had led to a more punitive rather than collaborative regulatory model, which is inconsistent with the original harm reduction goals of the Act. It was suggested by several stakeholders that the responsibility for enforcing the Act should rest solely with NSW Health inspectors.

Further, although stakeholders supported the reasoning behind a compliance approach in the Act, i.e. penalties for non-compliance, some stakeholders were unclear about the range of compliance activities required to enforce the Act and which entity was liable for contraventions. Stakeholders suggested that developing a clear framework for compliance and enforcement would address this ambiguity.

Although Liquor & Gaming NSW is responsible for enforcing the Act, it does not functionally maintain the subject matter expertise to enforce all aspects of the Safety Management Plan, including the elements related to health requirements. Liquor & Gaming NSW's main focus in enforcing the Act is around liquor licence breaches. This has resulted in a significant gap in monitoring and enforcing compliance with medical/harm reduction controls at festivals.

The review considered whether a compliance checklist would assist Liquor & Gaming NSW in enforcing the Act. However, a compliance checklist (or another similar compliance tool) would not provide Liquor & Gaming NSW sufficient expertise to undertake a qualitative assessment of the suitability of controls under a Safety Management Plan.

The review finds that although it would be most appropriate for the enforcement of the Act to be assigned based on subject matter expertise, NSW Health would need additional resources to take on this function. Any increase in NSW Health's duties under the Act could also impact its ability to closely advise and assist higher-risk festivals in planning and deploying appropriate medical resources at festival events.

Finally, the review finds that should the Safety Management Plan be refocused around

⁷ NSW Health 2023, *Guidelines for Music Festival Event Organisers: Music festival harm reduction*, <https://www.health.nsw.gov.au/aod/Publications/music-festival-guidelines.pdf>.

health matters, it should ensure that the plan only contains information pertinent to ensuring medical and harm reduction strategies rather than administrative requirements that would be enforced by Liquor & Gaming NSW or NSW Police.

9. Music Festival Roundtable

Most stakeholders agreed that the Music Festival Roundtable provides an important mechanism to address issues arising from music festival operations in NSW, facilitating the flow of information and creating good working relations between the industry and government. However, some stakeholders questioned whether providing for the operation of the Roundtable in the Act is necessary.

Stakeholders highlighted aspects of the Music Festival Roundtable's administration require improvement, including governance and process. Further, although co-chaired meetings were viewed as a good approach to support a shared sense of responsibility between industry and government, one submission raised whether such an arrangement could lead to conflicts of interest and biased decision-making.

Stakeholders suggested that the Roundtable's functions be more clearly set out to encourage a clearer focus. Instead of the existing co-chair arrangement, one stakeholder advised employing an impartial, objective chair who can ensure fair representation of all stakeholders' views and has the authority to set and direct the meeting agendas.

There was general agreement that the existing Roundtable membership was appropriate, though membership could be expanded to provide a more diverse representation of sectors. Several recommendations were made for new members including: DanceWize NSW, private medical providers, and NSW emergency services representatives (NSW Rural Fire Service, NSW State Emergency Service, and Fire and Rescue NSW).

The review agrees that the level of engagement and focus of the Roundtable could be improved. However, the review finds that stipulating the focus of the Roundtable in the Act might lead to a rigid framework that cannot adapt and change as needed. The review finds merit in moving elements of the Roundtable relating to governance and process to a supporting regulation or set of guidelines. There could also be significant value in establishing a more diverse representation on the Roundtable, including peer-based support services, private medical providers, young people, and other relevant government agencies.

10. Other administrative issues

Definitions within the Act

Overall stakeholders were supportive of the definitions currently prescribed in the Act. Stakeholder submissions highlighted that there was uncertainty in industry around the definition of ‘concert’, which is currently defined as a ‘music-focused event’ that:

- uses a single stage
- is proposed to be held over a period of less than 5 hours, and
- has not more than 2 headlining performers and not more than 4 performers in total, including supporting performers.

Uncertainty related to whether the definition required all elements to be met, or just one of the elements, as well as ambiguity around whether individual members of a group are determined to be “performers”.

Under the Act, a ‘prescribed event’ means the death of a person, or admission to an intensive care unit, that is reasonably suspected to be because of alcohol or drug use, or caused by crowd behaviour or improper safety management. One stakeholder highlighted that a drug-related intubation is commonly accepted and understood by industry as a serious event akin to a prescribed event in the Act. However, this is currently not included in the definition of a ‘prescribed event’.

The Review finds merit in ensuring definitions in the Act are up to date and consistent with current sector practice, including definitions of ‘concert’ and ‘prescribed event’.

Notification of an upcoming festival

Festival organisers are currently incentivised to submit an early notification form to advise Liquor & Gaming NSW of their intention to hold a music festival in NSW at least 120 days before the event. It is not mandatory. Some government stakeholders submitted that the early notification form should be mandated in the Act and that penalties be introduced for failure to submit on time.

The review finds that music festival organisers notifying Liquor & Gaming NSW of an upcoming festival at least 120 days before an event would ensure all key stakeholders are aware of upcoming festivals and allow ample time to identify whether a Safety Management Plan is required.

The Review noted that late applications and amendments place significant burden on the regulators who may not have the capacity to resolve these applications in the time available. These costs are not currently recovered from festival organisers.

The framework as it stands does not provide a clear incentive for applications and amendments to be submitted as soon as possible, especially given the hard deadlines placed on regulators to resolve these issues. While the Government has signalled its support for the festival industry, the review finds that a cost recovery fee for late applications or amendments would provide a strong incentive to organisers to submit applications on a timely basis.

This change would not only limit the impact on regulators of late submissions, it would also be expected to support better decision making overall.

Event briefings

Stakeholders agreed that the administrative obligations under Sections 10 and 11 of the Act, which require music festival organisers to conduct briefings with health service providers and to maintain incident registers, are appropriate.

The responses highlighted that pre-event briefings are a valuable mechanism to confirm that Safety Management Plans are suitable for the site, while post-event briefs facilitate exchanges of information and lessons learnt across operations, service providers, and emergency services. Mid-festival briefings were also identified as crucial to ensure patron safety was being maintained and any emerging issues were promptly addressed. Community stakeholders recommended extending briefings to NSW Police and Liquor & Gaming NSW inspectors to promote collaboration and proactive compliance, thus negating the need for more punitive measures.

The review finds that as mid-festival briefings would contribute to greater information sharing between organisers and government, there is merit in requiring this for festivals. Further, the review finds merit in extending briefings to relevant government agencies, such as Liquor & Gaming NSW and NSW Police, if required. To achieve this, the review finds that the creation of guidelines could allow government to set flexible administrative requirements for festivals and create the ability for the government to set out best practice standards, something not generally provided for by requirements in an Act.

Incident registers

Stakeholders generally supported the obligation to keep a register of incidents that occur at or near festivals to ensure organisers appropriately identify and respond to risks. It was also noted that incident reporting at music festivals contributes to the evidence base for harm reduction at these events. NSW Health advised that based on the incident register requirement, they have maintained a clear and comprehensive database of health incidents and outcomes from subject festivals.

Some stakeholders recommended that the information provided by NSW Police to festival organisers and government agencies on incidents at festivals be improved and for continuous quality improvement.

One submission suggested that it might be appropriate for all music festivals (subject or non-subject) to maintain an incident register. This requirement would support direct comparisons between incident figures from subject versus non-subject festivals.

Creating an additional requirement for NSW Police to provide information to festival organisers on incidents as they occur would likely create an additional burden on NSW Police, and the incident or matter would need to be sufficiently investigated and determined by them, before the information could be publicly shared. Therefore, the review finds that a more appropriate mechanism to exchange this information would be through the Music Festivals Roundtable.

11. Additional commentary on drug policy

Broader drug policy issues were considered outside this review's scope as defined under the terms of reference. This theme, however, was raised frequently and with strong sentiment during consultation. Stakeholders' commentary around drug policy at music festivals in NSW will therefore be described here as additional content but the review makes no specific findings.

The forthcoming NSW Drug Summit will consider the State's broader drug policy at length and help to build consensus on the way NSW manages harms arising from substance use. Therefore, it is more appropriate for drug policy issues concerning music festivals to be addressed at the NSW Drug Summit.

Stakeholders from industry and community sectors described the punitive approach to addressing drug-related harm at music festivals as being incompatible with an evidence-based harm reduction model. To support their position, stakeholders referred to the latest research and expert advice in Australia's National Drug Strategy (2017-2026). They stressed that high visibility policing tactics at music festivals are outdated and ineffective, with no evidence that punitive measures such as sniffer dogs and strip searches decrease drug use and harms.

Industry and community stakeholders urged the Government to acknowledge and implement recommendations from the 2019 Coronial Inquest and the 2020 Special Commission of Inquiry into the drug "Ice". Most notably, by limiting high visibility police tactics, implementing drug checking services, early warning systems, and drug education interventions at music festivals. Responses referenced the growing national evidence regarding the effectiveness of these measures in reducing drug-related harm at festivals.

Several stakeholders stated that peer-based harm reduction services are well-received by festival patrons and play a valuable role in helping to mitigate drug-related and other harm at festivals. However, some questioned the level of training that peer-based harm reduction workers receive and whether they have the appropriate qualifications to care for at-risk patrons. It was confirmed through the interviews that peer workers have a minimum of *Provide First Aid training* in addition to harm reduction care and education training. In addition, the Ministry of Health has approved the DanceWize process for assessing and escalating patrons to onsite medical services where required.

Appendix – Stakeholders consulted for the Review

The following 13 stakeholders contributed feedback toward the review either via written submission or interview.

1. DanceWize NSW (submission and interview)
2. Independent Liquor and Gaming Authority (submission and interview)
3. Liquor & Gaming NSW (submission and interview)
4. Live Performance Australia (submission only)
5. Local Government NSW (submission only)
6. NSW Health, including NSW Ambulance, local health districts, and Ministry of Health (submission and interview)
7. Pill Testing Australia (submission only)
8. Sound NSW (interview only)
9. The Australian Festival Association (submission and interview)
10. The Office of the 24-hour Economy Commissioner (interview only)
11. The NSW Government Cabinet Office (submission only)
12. The NSW Police Force (submission only)
13. U.K. contributors, including Major Events Boss Ltd, TLT Solicitors, and Casterton Events Ltd (submission only)

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