



13 December 2023

Liquor & Gaming NSW

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## **Re: Review of the *Music Festival Act 2019* (NSW)**

To Liquor & Gaming NSW

### **About us**

[Harm Reduction Australia](#) (HRA) is a national organisation for individuals committed to reducing the health, social and economic harms potentially associated with both drug use and drug policy approaches. HRA was formed in 2015 by a group of professionals concerned about drug policy in Australia.

Under the auspices of HRA, [Pill Testing Australia](#) (PTA) is a consortium of stakeholders that deliver drug checking services at music festivals and provide logistical, clinical, and analytical support to other stakeholders delivering drug checking in a range of settings. PTA delivered Australia's first government-sanctioned drug checking services in 2018, 2019, and 2023 at festivals in Canberra; and is a partner of the fixed site drug checking service that commenced in July 2022 in the ACT.

HRA and PTA welcome the opportunity to make a submission to the Review of the NSW Music Festivals Act 2019 (the Act). Our submission is focused on specific drug policy points relating to question 1-only, rather than responding to all aspect of the Act's review. PTA is a member of the Australian Festival Association (AFA), we have participated in the AFA's consultation process, and support the overview provided by the AFA in their submission which addresses questions 1-9.

### **Question 1**

*'Are the policy objectives that brought about the creation of the Act still valid, or has it changed?'*

### **The policy objectives of the Act**

The Review of the Act's Consultation Paper notes, *'The objects of the Act are not expressly stated in the Act, they were outlined in the second reading speech of the introduction of the Bill into Parliament on 16 October 2019... Although section 21 of the Act includes a regulation-making power, the Act does not currently have any supporting regulations.'*

### The policy objectives of the Act are to:

- *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.*

### Our Response to Question 1:

PTA supports the policy objectives of the Act. However, we appreciate this review is an opportunity to highlight that the Act's policy objectives are undermined by the wider regulatory and social context relating to music festivals in NSW. The Act's objectives are undermined:

- by some **ongoing policing approaches at festivals that are not evidence-based**, nor cost-effective, and continue to be used even though there is now a substantial body of evidence that such policing approaches cause significant and unintended harms. For example,
  - Sniffer dog operations are frequently described as a 'deterrent', but there is no evidence that the introduction of sniffer dogs reduces the instance of drug use or drug related harm. Conversely, there is evidence that sniffer drug operations influence drug use behaviour in a way that increases the risk of harm, such as through 'panic-swallowing' or internal bodily concealment (see findings by the Law Enforcement Conduct Commission: [Inquiry into NSW Police Force Strip Search Practices](#) and [Review of Standard Operating Procedures](#)); and
  - Roadside drug testing operations that target festivals do not test for impairment and this can have a significant and detrimental impact for people using prescription cannabis due to the long-time THC takes to leave a person's system.
- because **there is no acknowledgement that drug checking services and early warning systems** could 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*

### Our recommendations:

- 1) Ensure the Act's objectives are embedded among a wider regulatory framework so that the health and safety planning for festivals is well-coordinated and not undermined by counter-productive police operations, such as sniffer dog operations.
- 2) As part of the Act's review, we urge that there is consideration of the relevant recommendations from the [NSW Government response to the special commission of inquiry into the drug ice](#), such as:

*Recommendation 24 a— That NSW Health continue to use the Drug and Alcohol Service Planning Model as one input into service planning processes.*

*Recommendation 24 b— B. That to ensure that the Drug and Alcohol Service Planning Model is being used in the most effective manner, NSW Health:* • *engage an appropriate expert to periodically review and update the Drug and Alcohol Service Planning Model to reflect current use patterns and associated harms and treatment needs related to amphetamine-type stimulants* • *make the Drug and Alcohol Service Planning tool and its relevant outputs and data available for use as a planning tool by all local health districts, NSW primary health networks and non-government AOD service providers* • *make the Drug and Alcohol Service Planning tool and its relevant outputs and data available to other states and territories, and to the Commonwealth Department of Health.*

*Recommendation 53 a—A. That the NSW Government establish a state-wide clinically supervised substance testing, education and information service, with branches at appropriate fixed-site locations, to:* • *provide illicit drug market monitoring functions to inform public health and law enforcement responses, and* • *reduce drug-related harms through the provision, in conjunction with such testing, of appropriate health interventions, consumer education and information to members of the public.*

*Recommendation 53 b— B. That in addition, with a view to establishing an outreach capacity of the service to settings where there is a high risk of harm through illicit drug use, a trial be undertaken onsite at a music festival, and independently evaluated, to:* • *provide illicit drug market monitoring functions to inform public health and law enforcement responses, and* • *reduce drug-related harms through the provision, in conjunction with such testing, of appropriate health interventions, consumer education and information to members of the public.*

*Recommendation 54— That NSW Health develop evidence-based guidelines for the optimal delivery of brief interventions at substance checking services.*

*Recommendation 80— That the NSW Police Force cease the use of drug detection dogs at music festivals and implement other detection practices to target illicit drug supply.*



Recommendation 83— *That the NSW Police Force extend the range of drug seizures routinely assessed by the Forensic and Analytical Science Service for content and purity, and for providing data to early warning systems, such as the Prompt Response Network being developed by National Centre for Clinical Research into Emerging Drugs.*

- 3) As part of the Act's review, we urge that there is consideration of the relevant recommendations from the [Coronial Findings in the inquest into deaths at music festivals](#)

## In conclusion

PTA appreciates that some of the recommendations that we urge are considered in the review of the Act were not supported by the NSW Government in the past during the limited timeframe for a response. For example, for reasons such as the lack of evidence in support of drug checking. However, new evidence has since become available. For example:

- PTA's 2019 festival-based drug checking service was independently evaluated by a research team from [Australian National University](#).
- CanTEST started operating and the [6-month independent evaluation](#) was released in mid-2023 that demonstrates drug checking services can influence behaviour change where people may discard or modify their drug taking to reduce risk.

Further, there is growing evidence demonstrating that sniffer dogs are ineffective as a deterrent and cause unintended harms, which undermines festival patron health and safety.

Stakeholders from PTA would be glad to support further processes relating to the review of the Act and we are committed to the continual improvement of drug checking as a health service across Australia, including in festival settings to support the policy objectives of the Act.

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