

DRAFT SUBMISSION

REVIEW OF THE MUSIC FESTIVALS ACT 2019

DECEMBER 2023



Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

OVERVIEW OF THE LOCAL GOVERNMENT SECTOR



Local government in NSW employs
55,000 people



Local government in NSW is responsible for
about **90% of the state's roads and bridges**



Local government in NSW looks after more
than **\$177 billion** of community assets



NSW councils manage an estimated
4 million tonnes of waste each year



Local government in NSW spends more
than **\$2.2 billion** each year on caring for
the environment



NSW councils own and manage more than
**600 museums, galleries, theatres and art
centres**



NSW has more than **350 council-run
libraries** that attract tens of millions of
visits each year



NSW has more than **400 public swimming
and ocean pools**

INTRODUCTION

Local Government NSW (LGNSW) is the peak body representing all 128 general purpose councils across the State as well as a number of other related entities. By providing advocacy, representation and support, LGNSW helps member councils deliver improved services and better outcomes to their local communities.

Arts, culture and the creative industries are valued by local government as a cornerstone of building social cohesion, making places more liveable and enhancing community mental health. Increasingly, they are also recognised as an essential economic driver for visitor, regional and night-time economies.

To facilitate safer music events and following a number of deaths of patrons at some music festivals, the NSW Government established the Music Festivals Act in 2019, “to help identify higher risk music festivals, provide additional oversight and support for those music festivals, and to achieve the shared aim of safer events in NSW”. The full Act is at [Music Festivals Act 2019 No 17 - NSW Legislation](#).

Councils provide and support creative arts and industries across the state, and LGNSW welcomes the opportunity to provide a submission on the NSW Government’s current review of the Music Festivals Act 2019 (the Act). This Submission will provide feedback to the Consultation Paper distributed by Liquor & Gaming NSW in October 2023. The submission addresses the nine questions outlined in the consultation paper that seek feedback on the policy objectives of the Act, the ‘subject festival’ framework, regulatory and governance arrangements and the associated obligations and enforcement.

Please note that this submission remains in draft form until endorsed by the LGNSW Board.

BACKGROUND

Local Government NSW (LGNSW) welcomes the opportunity to comment on the review of the Music Festivals Act 2019 (the Act).

Across NSW, local councils deliver, fund, host, support and promote a range of initiatives in the arts and culture sector, including music and dance festivals. Local government plays a large and varied role in planning, approving, responding to, and supporting music festival organisers including the management of traffic, parking, waste and environmental services.

Successful music festivals contribute to vibrant local economies, opportunities for skilled and specialised jobs and careers, particularly in regional and rural areas, and community connection and cultural expression.

Music festivals can also present challenges for local government including additional costs of providing services to the venues, impacts on roads and other infrastructure, and community complaints in regard to public safety, noise and amenity.

Local Government acknowledges the guidance and regulation of music festivals that are provided for in the Act and welcomes the current review taking place, giving all stakeholders an opportunity to comment on the efficacy and appropriateness of the legislation.

LGNSW also generally supports the State Government's broader moves to provide enhanced support to the Creative Arts and Industries sector across NSW.

In July 2023, the State Government issued a discussion paper, "A New Look at Culture: Towards the State's First Arts, Culture & Creative Industries Policy". LGNSW submitted comments on the discussion paper and looks forward to the State Government's imminent release of the "Creative Communities" Arts Policy.

Further, on 21 November 2023, the NSW Parliament passed the 'Vibrancy Reforms' Bills, with amendments. These reforms seek to enhance a night-time economy that builds vibrant, diverse, inclusive and safe hospitality and entertainment precincts. Prior to their endorsement, LGNSW wrote to Minister John Graham MLC about the Vibrancy Reforms, seeking clarification in relation to planning controls, noise complaints management and response and amenity impacts.

Councils support the creative, cultural and economic vibrancy of their communities through sensible land use and social planning, place management and activation and encouraging investment for their cultural and visitor economy. It is in this context that LGNSW provides feedback on the review of the Act.

LGNSW POLICY POSITION

Policy positions that support creative arts and culture are set out in LGNSW's Policy Platform and include the following:

Libraries, Arts and Culture:

LGNSW calls on State and Commonwealth governments to:

- 15.3 *Ensure councils receive a fair share of funding from and access to government arts and culture programs.*
- 15.4 *Recognise the challenges for small, regional and remote councils and prioritise them for arts and cultural funding relative to the large State Cultural Institutions.*
- 15.5 *Provide stimulus and recovery funding to councils to promote and support arts and culture, including for galleries, performance, exhibitions and festivals.*

Other relevant policy positions are:

Economic Development:

LGNSW advocates to the NSW Government and the Australian Government to:

- 2.3 *Reduce unnecessary regulatory complexity affecting local economies to support events, cultural and business uses.*
- 2.6 *Invest in accessible, sustainable and low impact tourism experiences through:*
 - *Establishing regional roadshows and touring schedules.*

Health and Safety:

LGNSW advocates for:

- 14.1 *Practical reforms and initiatives that improve public health and safety but do not represent cost shifting or burden the limited resources of local government without providing adequate funding or cost recovery mechanisms.*

In a similar vein, the following resolution was passed at the 2023 LGNSW Annual Conference calling for greater funding from State and Federal Governments in regard to managing the impacts of tourism, which would include the staging of music festivals that attract outside visitors:

Resolution 61 - Waverley Council - Tourism impacts

That Local Government NSW increases its advocacy to ensure local councils receive fair funding from both the Federal and State governments in order to:

1. manage security related risks and anti-social behaviour (and remove user pays arrangements for government services such as police), and
2. meet the additional costs from waste and cleansing from the impacts of tourism and the influx of visitors to the local area.

FEEDBACK ON THE NINE TARGETED QUESTIONS IN THE CONSULTATION PAPER

Policy Objectives - Questions

1. Are the policy objectives that brought about the creation of the Act still valid, or has it changed?
2. What should the objectives of the Act be?

Overall, the policy objectives are still valid. They centre on:

- A well-coordinated approach when planning for music festivals;
- Useful recommendations to festival operators to ensure adequate personnel and equipment (including medical), to deal with risks;
- Best practice advice from clinical and public safety experts;
- Effective allocation of public resources by Government;
- Accountability of festival operators for running safer events; and
- Public confidence in adequate risk management to ensure patrons get home safely.

The policy objectives could be strengthened through adding an acknowledgement of the local economic and community benefit resulting from festival operators conducting festivals that adhere to and meet the other policy objectives. A suggested addition to the policy objectives could be:

- Provide local communities with strong economic development and other associated benefits through the staging of safe, successful and sustainable music festivals.

The Act provides a legislative vehicle that supports safer music festivals. By defining a subject festival, identifying the lead agency for coordination and reporting, and setting guidelines for cost effective user-pay safety measures, the Act helps to meet some of the above stated policy positions.

In regard to the Definitions provided in the Act, the definition of “concert” refers to a limit on performers, namely that such an event has “...not more than 2 headlining performers and not more than 4 performers in total...”. This definition could be misinterpreted if individual members of a group are determined to be “performers”. For instance, 2 headline acts featuring two bands who each have 4 members could be viewed as featuring “8 performers”. For this reason, clarity could be provided through the addition of a simple sentence such as “...where one group or collective is considered as one “performer””.

Secondly, a ‘subject festival’, which needs to be delivered with an approved safety management plan, is generally more costly operationally and these costs are borne by the operator via a user-pay model. The term ‘adequate personnel and equipment’ could be further defined, or set out in an associated set of Guidelines, that relate to ‘provision of a safe environment that minimises risks and responds effectively to incidents’.

Allocation of public resources (medical personnel, police) should be based on best practice advice for public safety but with consideration given to costs to both the operator and impact on (and diversion of) public resources.

Subject Festivals - Questions

3. Is the ‘subject festival’ framework, as it is currently presented, the most effective framework for ensuring higher risk festivals are run safely?
4. Is the existing process for festival organisers to inform the Government about an upcoming festival effective, or could there be a more efficient method?
5. Is the current regulatory arrangement with the Liquor and Gaming Authority NSW, as the decision maker for determining whether a festival is a subject festival, the most appropriate arrangement for ensuring the objectives of the Act?

LGNSW agrees that the 'subject festival' framework is effective for ensuring higher risk festivals are run safely. It could be strengthened however by setting out in the Act that Liquor & Gaming NSW must send the safety management plan to the NSW Police Force and NSW Health for review and advice. Sending the safety management plan to the local government authority and neighbouring local government authority is also advised, for effective and comprehensive communication between councils and festival organisers.

While acknowledging Liquor & Gaming NSW as the lead decision maker, LGNSW recommends a more interactive, collaborative approach between Liquor & Gaming NSW, other state government agencies (Police, Health, Ambulance) and local government, and with festival organisers with the aim of holding safer music festivals.

Included in the safety management plan could be acknowledgement of the role that medical personnel play in providing health promotion and harm minimisation messaging at festivals, (e.g., 'seek medical help early'), in addition to health monitoring and medical emergency response.

Obligations and Enforcement - Questions

6. Are the administrative obligations for organisers of subject festivals appropriate?
7. Are the enforcement powers available to Government balanced and appropriate?
8. Are the current regulatory arrangements, with Liquor & Gaming NSW as the lead agency to enforce the Act (section 12), the most appropriate arrangement for ensuring the objectives of the Act are met?

Administrative obligations for organisers comprise briefings with health service providers and the keeping of incident registers. This could be expanded to also include briefings with Police, who, like their counterparts in health services, could provide observations and insights to festival organisers. Triangulation of incident registers kept by medical personnel and Police could also facilitate better communication and collaboration between government and festival operators and continuous quality improvement.

It is appropriate that Liquor & Gaming NSW is the lead agency to ensure the objectives of the Act are met. As always, LGNSW would encourage officers of Liquor & Gaming NSW to work collaboratively with council staff in the subject area who can provide local knowledge and input.

Music Festivals Roundtable and Miscellaneous - Question

8. Are the governance arrangements in the Act – such as the Music Festivals Roundtable – the most appropriate for ensuring an effective relationship between Government and industry?

The Music Festivals Roundtable has membership that is wide-reaching and appropriate. It enables an effective governance arrangement to address issues as they arise and to review legislation, advice, reports and other matters relevant to the operation of music festivals.

The inclusion of Local Government NSW on the roundtable provides an important avenue for the voice of local government to be heard by other stakeholders. It also provides a valuable forum for local government representatives to be informed about the challenges, risks and opportunities involved in the staging of music festivals and to report back to the local government sector.

LGNSW supports the work of the roundtable and would encourage the continued practice of site visits which provide valuable examples of the real-life challenges and opportunities associated with festivals. Holding meetings at festival sites facilitates stakeholder engagement with Roundtable members and provides informed insight during subsequent discussions on key issues. When held on site, meetings are conducted in a space that is conducive to confidential and considered discussion and LGNSW supports this practice continuing.

CONCLUSION

Local government is a key player in the support and provision of arts and cultural initiatives, exhibitions and events including music festivals. Councils across the state recognise that these events contribute to local economies, enhance community connection, and provide an important avenue for creative practice and public entertainment and enjoyment. The Music Festivals Act 2019 ensures that music festivals, and in particular, subject music festivals, are conducted in such a way that minimises risks to the safety of the public, patrons and festival personnel.

LGNSW supports the Music Festivals Roundtable and looks forward to its continued involvement, to ensure the voice of local government is heard in efforts to ensure the ongoing provision of safe festivals.

LGNSW would welcome the opportunity to be interviewed by Liquor & Gaming NSW, as part of their stakeholder consultation process and we look forward to the final findings of the review.