

**MUSIC AUSTRALIA**

**CLARKEKANN**

**Small Bars Review**

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**Submission by Music Australia**

**Prepared by Music Australia and ClarkeKann**

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**ClarkeKann**  
LAWYERS

## **Music Australia makes this submission to the New South Wales Government Review of the Small Bars Legislation.**

### **1. Introduction**

Music Australia is a 50-member not for profit national peak music organisation for Australia and the only body in the country devoted to music in its entirety. As a national umbrella body we work with the professional industry to deliver information and resources, advocacy campaigns, and sector engagement. Our members include key national music industry organisations, artform specialists, and expert Industry Advisory Groups. We are active in music education and run Australia's largest school music program. *Music: Count Us In* reaches over 2,000 schools and 500,000 students across Australia, and provides professional development to 3,500 teachers.

This submission makes comment on the Review of the Small Bars Legislation in relation to live music in licenced premises.

### **2. Summary**

The small bar licences is a welcome policy development, and has significantly reduced cost and regulatory burdens for small bar owners and operators. However in NSW the license has not been conducive to presenting live music for the enjoyment of the public, largely because the capacity limits are too small to enable viable performance. Live music does require a certain patron capacity and opening hours of sufficient duration for viability. Music Australia contends live music is not a high risk activity, and a significant opportunity exists for live music to be fostered in small bars with some relatively straightforward amendments to the legislation.

Music Australia submits that modest amendments to the current licence would provide increased patron amenity and entertainment choices in small bars, ameliorate adverse impacts on music of lockout laws, and have a low risk profile that would be welcomed by the general public.

### **3. Specific Responses**

#### **(a) *Small bar licenced venues as venues for live music performances.***

Currently very few venues holding the Small Bar Licence offer live music, and the City of Sydney in their submission to the Callinan Review noted that 100 percent of venues offering a high degree of live music did so utilising different licenses.<sup>i</sup>

Small bars can play a vital role in music industry infrastructure provision which requires a mix of small, medium and large venues suited to different music styles and stages in musical careers.

Small bars can contribute to an increased number of small music venues and foster creativity as entry level venues. They can contribute to early stage career development by fostering emerging artists and enabling them to building an audience, which are valued and constructive music industry development roles.

Small bars presenting live music also provide social and cultural benefits. Australians love music as a source of identity and pride, and live music has more attendances than sport.<sup>ii</sup> 99 per cent of Australians listen to music and attend a music event in any one year<sup>iii</sup>, and 32 per cent of young people are involved in music making.<sup>iv</sup>

#### **(b) *The benefits of live music.***

Live music offers multiple benefits to the City, the State and the country.

Music Australia has estimated the broader music sector contributes \$4 to \$6 billion to the Australian economy,<sup>v</sup> and Australia's live contemporary music industry generates revenues of \$1.5 - \$2 billion annually.<sup>vi</sup> Australian music and performing arts businesses comprise almost one per cent of all Australian small businesses<sup>vii</sup>, and

expenditure associated with live music in Australia is estimated to generate some 64,747 jobs, 37,652 of which are full-time.<sup>viii</sup> Live music is also the main source of income for musicians.

Live music can promote positive behaviour amongst young people and the broader public. A 2011 Deloitte study for Arts Victoria found that “92% of patrons surveyed believe that live music in venues improves quality of life, and 84% believe it provides a welcoming and safe environment... participants noted that live music often draws the focus of the crowd away from alcohol consumption and towards the music performance – the specific reason for attendance at the venue for 63% of patrons.”<sup>ix</sup>

(c) *The opportunity small bars present for live music*

There is an opportunity to redress the adverse impacts of lockout laws on live music which has seen a sharp drop in live music activity in the inner city<sup>x</sup>, by adopting policies to foster more live music in small bars.

There is a parallel opportunity to redress the loss of small music venues, which is a national and global problem. The City of London has lost one third of their grass roots venues in the past ten years.<sup>xi</sup> In Sydney, proactive policy initiatives are vital, as in London, to ensure small as well as medium and large live music venues, thrive.

The 60 person capacity limit is too small for live music to be a viable proposition for small bar owners. The author of the submission, a previous manager of several small to medium arts venues, can attest that at least double this capacity is the minimum number required to effectively and viable present live performance.

If a venue is to include a door charge to cover the cost of live music (assuming \$15 net per head), at least 100 tickets would need to be sold to cover the bare costs of musicians, technician and equipment. Overheads add to these costs requiring a higher capacity again. The current 60 person capacity does not provide the ability to meet this threshold.

Live music venues also require opening hours of sufficient duration for economic viability. Typically venues will present two shows, the first from 8pm and the second later in the evening. Several bands may appear. A midnight closure restriction inhibits the ‘double performance’ which is vital to the business model for many venues. The cost dynamics of live music are such that typical revenues from food and beverage comprise over 80 per cent of total income, and ticket sales less than twenty per cent.<sup>xii</sup>

(d) *Managing the risks*

Music Australia contends there are minimal risks to be mitigated by making these changes, as live music is not a high risk activity, and associated locational and amenity risks can be effectively managed.

We submit that music is not a contributor to anti-social or violent behaviour, or excessive alcohol consumption. Research has demonstrated that there is no empirical evidence that identifies live music as a cause of anti-social behaviour (see Giesbrecht, Bosma, Juras, & Quadri, 2014; Green & Plant, 2007; cited in Carter & Muller 2015).

Indeed music can be part of the solution through its civilising impact on people’s behaviour, and provision of alternatives where excess alcohol consumption and violent behaviour result from there being “nothing better to do”. Live Music attendance has also been identified by patrons and venues as contributing to improved health and wellbeing.<sup>xiii</sup>

Legislative amendments can require the decision-maker to be satisfied that the venue has the appropriate space required, effective noise mitigation measures in place, and the increased capacity will be managed safely.

We contend that the regulatory system in which venues operate should recognise low risk and remove cost and regulatory barriers accordingly.

(e) *Reducing regulatory barriers*

A 2015 Study for the Live Music Office and the City of Sydney found “the barriers to obtaining approval to provide entertainment are too high to encourage low key, live performance at the community and grass roots level.”<sup>xiv</sup>

This Review provides the opportunity to lower these barriers to foster live music, specifically by increasing permissible venue capacity, and extending permitted opening hours.

(f) *Incentivising live music*

Music Australia also submits that the NSW Government should incentivise small bar licenced venues to use their venues for live music, as has been done in other jurisdictions, notably in Victoria.

For example, in addition to easing trading restrictions and capacity limits on venues offering live music, incentives to make venues fit for purpose for live music provision, such as noise attenuation grants, could be offered.

It may be reasonable for a 120 person capacity licence to be conditional on the regular presentation of live music programs. Such venues could also be eligible for increased trading hours, and reduced or removed loading fees, and other fees and charges.

(g) *Recommendations*

Music Australia advocates that the capacity for small bars be increased to 120 people or higher, to enable these venues to have a reasonable business environment to operate. This would make the legislation comparable to other jurisdictions.

We also recommend that there be no additional restrictions on the trading hours of small bar licenced venues, and that small bar licenced venues be able to apply for an increased capacity for live music performances, and longer opening hours, provided that they can satisfy the decision-maker that the venue has the appropriate space required, effective noise mitigation measures, and the increased capacity will be managed safely.

## References

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- <sup>i</sup> City of Sydney Submission to the Callinan Review noted: “recent analysis of 2014 APRA data conducted by the City which identified that, of the venues with a high degree of live music activity (programming expenditure or ticket receipts of \$100,000+), 56 per cent did so under a Hotel liquor licence and 44 per cent under an On-Premises liquor licence, most commonly an On-Premises (Restaurant)”.
- <sup>ii</sup> Roy Morgan Research (2014)
- <sup>iii</sup> Australia Council for the Arts, Australian Government (2012) *Music Sector Plan 2012-14*
- <sup>iv</sup> Australia Council for the Arts, Arts in Daily Life: Australian Participation in the Arts(2014)
- <sup>v</sup> Estimating the Value of the Music Sector (2005-2014) – [Music in Australia Knowledge Base](#)
- <sup>vi</sup> E&Y for APRA Economic contribution of the venue-based live music industry in Australia (2011) & 2014 Ticket Attendance and Revenue Survey Live Performance Australia (2015)
- <sup>vii</sup> Valuing Australia’s Creative Industries Final Report (2013) Creative Industries Innovation Centre
- <sup>viii</sup> The Economic and Cultural Value of Live Music in Australia, University of Tasmania (2014)
- <sup>ix</sup> Deloitte for Arts Victoria (2011) The economic, social and cultural contribution of venue-based live music in Victoria
- <sup>x</sup> Figures released by industry body APRA AMCOS in February 2016 indicate a 40 per cent drop in live music revenue in the Sydney CBD lockout zone since the laws were introduced in 2014. The data also shows a 19 per cent decrease in attendances at night clubs and dance venues in the affected zone: APRA AMCOS, <http://apraamcos.com.au/news/2016/february/sydney-cbd-sees-drop-in-live-performance-revenue-since-introduction-of-lockout-laws/> accessed 22.3.2016
- <sup>xi</sup> London’s Grass Roots Venues – A Rescue Plan - City of London 2015  
[https://www.london.gov.uk/sites/default/files/londons\\_grassroots\\_music\\_venues\\_-\\_rescue\\_plan\\_-\\_october\\_2015.pdf](https://www.london.gov.uk/sites/default/files/londons_grassroots_music_venues_-_rescue_plan_-_october_2015.pdf)
- <sup>xii</sup> Ernst & Young for APRA AMCOS (2011): [Economic contribution of the venue-based live music industry in Australia](#)
- <sup>xiii</sup> University of Tasmania 2014: page 28-29
- <sup>xiv</sup> Low Risk Arts and Cultural Venue, for the Live Music Office and City of Sydney, 2015, <http://livemusicoffice.com.au/low-risk-arts-and-cultural-venues-report/>.

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