

Liquor Law Review
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The Live Music Office was established in July 2013, and works to increase opportunities for live music in Australia by identifying and advocating for better policy, regulation and strategy. The opportunity to provide a submission to this enquiry is appreciated.

As background,

- 2015 research conducted by the [University of Tasmania](#) estimates the Australian live music industry is worth \$15.7B in economic, civic and individual benefits, and creating 65,000 jobs.
- NSW is the largest contributor at \$3,623M and 23,207 jobs.
- This is consistent with [other research](#), which has identified NSW as representing approx. 32.1% of the venue-based live music industry (Qld – 23.6%, Vic – 22.0%).

The introduction (and without adequate consultation or lead in time for an orderly transition to the new regulatory framework) of the Sydney CBD Plan of Management in 2014 has seen serious unintended consequences for musicians jobs and performance opportunities, diversity and vibrancy in the night economy, and especially for the operators of well run live music venues in the CBD.

In figures released in February by APRA AMCOS through the Live Music Office, there has been a 40% drop in live performance revenue at venues within the Sydney CBD lockout area through 2014, the first year of operation of the Sydney CBD intervention.

APRA AMCOS analysed its licensing revenue for the period 1 February 2013 to 31 January 2015, and saw additional decreases in the value of fees collected from licence holders within the Sydney CBD Plan of Management lockout area:

Venues with a Live Artist Performance licence – All premises

- 40% overall decline in the value of door charge receipts
- 15% overall decrease in the value of venue expenditure on live artist performers

Venues with a Live Artist Performance licence – Hotels, bars and nightclubs

- 32% decrease in the value of door charge receipts
- 17% decrease in the value of venue expenditure on live artist performers

Venues with a Recorded Music for Dance Use licence – All premises

- 19% decrease in attendance figures across all venues

The APRA AMCOS licence fee for Live Artist Performances is based on a percentage of the venue's expenditure on live artist performers and a percentage of any ticket charges. The APRA AMCOS licence fee for Recorded Music for Dance Use is based on attendance figures. APRA AMCOS reassesses the value of a venue's licence annually on the anniversary of the licence coming into effect. Accordingly, the full impact of the Sydney CBD lockout will be reflected in the organisation's data post February 2016.

Underlying these figures is a loss of reputation and confidence for the city nightlife, as audiences migrate away from the city or don't come at all, shifts in programming as venues that formerly had two shows a night can only have one – which then has a multiplicity of implications around timing, marketing and choosing artists.

Venues where artists would congregate after shows are no longer permitted in the CBD.

Following the groundswell of community activation from the globally viral online critique of the CBD Plan of Management by entrepreneur Matt Barrie, in his speech to the Keep Sydney Open Rally on 21 February, profile Australian musician Dave Faulkner from the Hoodoo Gurus told of how fundamentally crucial late night venues were and are to creating popular music scenes in Sydney.

The Trade Union Club was the big league for a band like us, and eventually we became popular enough to headline there, but more than that, it was a cultural hub. Upstairs, in the third floor band room you might see The Birthday Party or The Saints, The Scientists or The Laughing Clowns, and then afterwards everyone would head down to the first floor for a nightcap and to catch up with friends. If you happened to be a working musician yourself, you might not make it there until after the bands had finished. That was when your own Friday or Saturday night would begin. The first floor became a place to meet other musicians, artists, photographers and writers, to talk shop, share ideas and have a few laughs. It was the centre of a thriving arts community and it was our home. I saw quite a few sunrises walking home from there.

The Hoodoo Gurus would also play at the Manzil Room in the Cross-, later on known as Springfield's. It was a hard gig because our first set wasn't until 1AM, and the second one was around 2:30 in the morning. Apart from regular punters, The Manzil also attracted many other musicians and road crew, who would head there after completing their gigs elsewhere in the city. You'd also meet talent scouts from record companies and radio station DJs. Some bands, like Moving Pictures, were discovered there, others, like us, cemented their reputation there. All of us used it to made inroads into the competitive world of music.

It goes without saying that neither the Trade Union Club nor the Manzil Room could operate under the current lockout laws. They were an important stepping-stone for young bands like us, but more than that, they were a cornerstone of the music community. Today, that important nurturing role is played by venues like Good God Bar in the city and the Oxford Arts Factory in Darlinghurst, but these businesses, like so many others, are under threat from these wrongheaded laws.

If a factory closes and 70 workers lose their job it is front-page news, and well it should be, and there is concern in the community for the effect it will have on the families of the people directly affected as well as on the wider economy. When Hugo's Lounge closed in July last year, putting 70 people out of work there was barely a murmur from the public. People have been cowed into thinking it's shameful to want to go out after 1:30AM or to stay up past 3AM, or at least, it's wrong in certain, *specified areas* that are *near* the city and *aren't casinos*. These "certain areas", mind you, have always been the heart of Sydney's entertainment industry. For all of this century and most of the last, they put Sydney on the map and they are a big reason visitors have enjoyed their time in our city.

As CBD venues struggle now to survive programming live music, the future looks bleak unless the 1:30am lockout can be lifted quickly for live music venues to restore confidence and reputation, as losses reflected in APRA AMCOS data are unsustainable.

As a behaviour modification, the CBD plan of management has achieved a significant reduction in admissions to RPA for serious injuries, which is recognised as a success at this time. It is also important to note that there is no evidence that we are aware of to support claims that violence has been displaced to Newtown for example.

Given that the intervention has achieved its primary intended result, this now provides an opportunity to revisit alternative licensing approaches to support safe and diverse late trading licensed premises, and to nurture vibrancy and global city status.

That lockouts and cease service conditions for a potentially global city are the only alternative available to the NSW Government in planning for a safe and vibrant city is not correct, and we don't need to look very far afield to see approaches that move beyond a reactive approach to public safety, as both Victoria and the ACT have very recently considered the introduction of having blanket jurisdiction wide lockouts and cease service and have declined to put them in place.

As reported in The Age on 16 February 2016,

Minister for Liquor Regulation Jane Garrett says that previous attempts at a lockout in Melbourne were "a disaster for the fabric of our social and cultural identity". Melbourne has ambitions to be a 24-hour city, including having a year-long trial of all-night public transport on weekends.

Victoria has placed an emphasis on smaller venues with a freeze on new licences to serve alcohol after 1am, with exemptions for small venues that serve food or feature live music.

"We tried lockout laws and it didn't work for Melbourne," Ms Garrett said.

"We trust Victorians to choose where and when to have a drink and we believe the solution to violence is to punish the violent and not everyone else. We don't see any sense in creating the ghost town that Sydney has become," Opposition Leader Matthew Guy said.

The need for broader stakeholder consensus as well as the significant negative impacts from the CBD Plan of management was also recognised in the comments of ACT Chief Minister Andrew Barr in the Canberra Times on 25 March 2016.

Mr Barr said, "prohibitions, curfews and the like tend not to be particularly successful". The response in Sydney and Queensland had been heavy-handed and had had "quite detrimental impacts in many other areas", he said, ruling out such "dramatic" changes in Canberra, where the government was "conscious of the need to work with all stakeholders".

As a promoted indicator of public support for lockouts in NSW generally, a Galaxy poll last month showed two thirds of residents support the laws, however with a sample size of merely 353 respondents weighted by age, gender and importantly region, it could be argued that many respondents would have little or no experience of the many positive attributions of the Sydney CBD night economy and would rather be basing their opinions (and therefore by association policymakers also) on short grabs of aberrant behaviour from television news items and print media rather than first hand knowledge of what a happy and safe late night out actually looks like.

It should also be noted that impacts from the CBD Plan of Management be seen in the context of a number of other policy interventions that include:

- The Liquor Freeze
- Kings Cross Plan of Management
- The *Liquor Legislation Amendment (Statutory Review) Bill 2014*
- Risk-based licensing loadings

Whilst in the perception of the community and occasionally reflected in the media, these interventions have been conflated into a general policy concept of 'Lockouts'. Each of these has a distinct and separate impact on the live music sector and cultural diversity in the CBD. No doubt as the review unfolds these will pose challenges for the isolated evaluation of the CBD Plan of management as the overlap in application and perception becomes apparent.

Further impacts being felt from associated interventions include

- Restrictions on variations for entertainment premises licences by the liquor freeze, embedding the existing character and by association, delivering a perverse result.
- On-premises licensed venues being regularly harassed by police (in Surry Hills in particular) for providing entertainment as inconsistent with their primary purpose – even though the 2009 Planning PoPE reforms prescribe that hospitality consent approved premises can provide live entertainment as a normal part of their business without separate approval.
- Entertainment premises with late trading being required to now pay \$5,000 + annual fee risk loadings even though they may only open for a few late events each year.

The Live Music Office strongly supports the initiative of the NSW Deputy Premier Troy Grant in convening a series of roundtable meetings on 31 March, 28 April and 19 May 2016 to examine the challenges and opportunities for growing a safe and vibrant night-time economy in Sydney. These roundtables *“provide community, industry and government participants with a unique opportunity to contribute to a holistic discussion and help shape thinking on how best to improve the safety and vibrancy of Sydney’s night-time economy”*.

Alongside the urgent consideration of exemptions from the 1:30am lockout for live music venues, the Live Music Office called for the establishment of a roundtable in the Sydney Morning Herald on 19 February 2016 *Sydney lockout laws bite as live music ticket sales crash* - and the opportunity to participate in this important forum is appreciated.

Public policy ensuring community safety should not arbitrarily impact well run businesses that provide arts and cultural activity in the night economy as is being experienced in the Sydney CBD at this time. Public safety and vibrancy should be seen as complementary and operating hand in hand, rather than as mutually exclusive ne’er the twain shall meet components made further irreconcilable by liquor policy driven by television news grabs of late night public domain violence.

The Safe, Strong and Vibrant Sydney Night-Time Economy Roundtables provide an important opportunity for all parties to consider alternatives and look beyond any fixed positions to what a healthy night economy will be.

Governments are very good at designating music and licensed venues as high-risk premises across a range of regulations, but much less forthcoming at providing for entertainment activity that they consider a lower risk.

These principles have been recognised by Victorian liquor and planning regulation, by the City of Sydney through its Live Music and Performance Action Plan, through the work of the South Australian Music Industry Council, Live Music Regulation Roundtable, and the current 90 day change project underway to develop a model live music and entertainment regulation for South Australia.

The Live Music Office recommends that the City of Sydney Live Music and Performance Action Plan as well as the recent work of the South Australian Live Music Regulation Roundtable be referenced as showing the way forward to achieve a more vibrant creative and safe city through the roundtable process and beyond, and where the roundtable should be maintained as an ongoing standing committee to ensure commonsense consensus policy and regulation is developed.

The Live Music Office also recognises that many artists work in licensed premises and often finish late in the evening when bottle shops will have closed. To preclude night economy

workers from having the same access to hospitality options as those who work through standard work hours is a loss of amenity and again, there should be other site-specific ways to address this issue rather than the blanket state-wide prohibitions where no associated problems are being experienced.

In closing, the Live Music Office submits the following changes to the Sydney/NSW Liquor licensing framework to support the sustainability of a vibrant, safe and creative nightlife, and to provide for the workers in the 'other 9 to 5' economy.

- Exemptions for live music venues from 1:30am lockouts
- That well run premises with existing trading approvals within the CBD Plan of Management be allowed to serve alcohol after 3am
- Exemptions for premises intending to present live music and performance from the Liquor Freeze to contribute to city vibrancy
- On-premises licensed venues be not unduly targeted by police for providing live entertainment consistent with 2009 planning legislation and associated extrinsic guidelines.
- Late trading premises providing live music be given consideration with risk based loadings
- Return bottle shop trading to standard trading hours prior to the 2014 10pm conditions
- Formation of an ongoing industry working group (or variation of the safe and vibrant Sydney Roundtable) consisting of NSW Government, local government and industry stakeholders and experts to oversee a targeted review into regulatory barriers for the live music industry, undertaken through the NSW Government's 'Better Regulation' program

Yours Sincerely,
John Wardle,
Policy Director
Live Music Office

