

## Response to the Liquor Licensing Discussion Paper

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### Response to the Liquor Licensing Discussion Paper

This submission has been prepared by Music SA, Musitec and The Live Music Office as an independent document to the Music Industry Council submission to which we also contributed and endorsed.

Music SA	Music SA is a not-for-profit organisation committed to promoting, supporting and developing contemporary music in South Australia.
Musitec	South Australia's Music Cluster Organisation
The Live Music Office	Established in July 2013, the Live Music Office works to increase opportunities for live music in Australia by identifying and advocating for better policy, regulation and strategy. Our advocacy encompasses regulation, research, audience development initiatives and support for music industry development.

We welcome the opportunity to respond to the Liquor Licensing Discussion Paper, and acknowledge that the liquor licensing framework has not been reviewed in its entirety for close to two decades, the need to ensure relevance, that the framework needs to reflect the needs of the community,

Our response to the discussion paper reflects the three key themes;

- Red Tape Reduction,
- A Safer Drinking Culture
- Vibrancy

### REDUCING RED TAPE

#### *Q. Is there too much red tape when applying for a liquor licence?*

The recent experience of a number of dedicated live music venues in applying for both DA and liquor licenses have been unnecessarily protracted and expensive – The Jade Monkey comes to mind. Additionally, there are associated implications with the planning system as has been the experience with small venues licences in the Adelaide CBD. Whilst the intent of the licence category was to encourage more live entertainment - being exempt from the then current requirement for entertainment consent as a supplementary licence condition, the consent authority (Adelaide City Council) then required that no entertainment be allowed as a condition for approval for a number of venues.

We strongly support the intent to provide red tape reduction for liquor licence applications in the direction of the discussion paper.

#### *Q. Do we need twelve liquor licence categories?*

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The Discussion Paper preamble indicates that *“The Government welcomes bold and brave ideas for proposed reform to ensure the best possible outcome for South Australia”*

Our position is that there is a need for more flexible and responsive liquor licensing options for the small to medium independent arts and culture sector, and propose the following innovative and considered additions to the licensing framework.

1. The creation of a Low Risk Arts and Cultural Venue BYO licence.
  - Patrons provide their own alcohol for supervised consumption ancillary to live entertainment, theatre / comedy / visual art / dance
  - 120 capacity
  - On duty RSA
  - 12am cease trade
  - Entry level venue option for creative entrepreneurs not interested in operating fully licensed premises with burdensome requirements
  - To encourage low risk arts and cultural use - Theatres, galleries, live music performed by a person physically present.
  - An option for consideration could be to restrict to Beer/Wine/RTD

This proposal has been developed from the input of Sydney Fringe Festival Director and theatre and live music venue owner Kerri Glasscock . In workshopping this idea we have also consulted with the Australian Hotels Association who have indicated a level of comfort with this proposal, and we put forward that this category would both complement the forthcoming state variations to the building code as well as providing an alternative to the small venues licence as an entry level venue option for creative entrepreneurs not interested in operating fully licensed premises with associated burdensome requirements.

We also request the consideration of the following changes to the Limited Licence category, both of which have been recently introduced in NSW. Each of these would provide reduced red tape and more opportunities for live music and arts and cultural events, and genuinely reflect the needs of the South Australian live music sector.

2. Introduce a liquor permit scheme where a single applicant can present a number of creative events under a multi function limited licence.
3. Exempt non-profit community organisations from having to obtain a licence to sell liquor at up to six small fundraising events per year.

The Government has requested bold, brave and innovative ideas which we suggest these are, and we look forward to further consideration of these important new licensing options.

*Q. Is there confusion as to the role of the liquor licensing framework and other legislative frameworks imposed by bodies such as planning, noise and health?*

Live music venues and licensed premises exist in a co-regulatory framework which is complex and expensive. This has been recognised with the establishment of the South Australian Live Music Roundtable,

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With the Live Music Regulation Roundtable agenda encompassing liquor licensing, planning, EPA, and building controls and as noted in the Music Industry Council submission to the Discussion Paper, ensuring that the *Liquor Licensing Act 1997* review maintains a working relationship with the Roundtable program throughout this process will provide essential feedback and reference. There is more that can be done to ensure efficiency and optimisation of the regulation of live music venues.

*Q. Should consultation on planning and liquor licence applications occur at the same time?*

Consultation with venues has identified this proposal as potentially cost effective and efficient, and we support this in principle. We look forward to more detail being provided as to how this would function operationally.

*Q. Should local councils have the right to intervene in a liquor licence application having already approved the development application?*

The capacity for local councils to oppose an already approved development which has been quite clearly identified as licensed premises is inconsistent with the red tape reduction agenda we endorse and therefore not supported.

*Q. At what point in the process should a member of the public be able to voice their concerns?*

As more detail is provided to the proposed amalgamated liquor licensing and DA process this will give more context to a considered response to this question. We look forward to more detail being provided as to how this would function operationally.

*An objection to a liquor licence from a member of the public can cause unnecessary delay for the business owner and can provide a second forum for an objector to be heard. Change is needed to improve the reliability and predictability of the planning and liquor licensing systems.*

Agreed

*Q. Should standard liquor licence conditions be developed and implemented where disagreements arise? If so, what should those conditions be based on? For example, should it be based on the licence class, zone or capacity of the venue?*

Identifying the land use through planning controls sets the ground rules / expectations of business and residents. Licence class, zoning and capacity would all be important considerations were standard liquor licence conditions to be prepared in this context.

*Q. Should appeals against decisions where there are both elements of liquor and planning be heard together?*

On face value this makes sense. We look forward to more detail being provided as to how this would function operationally.

*Q. Should crowd controllers be approved under two Acts?*

Given the red tape reduction agenda, this would seem to be inconsistent with reducing cost and regulation for business. We look forward to more detail being provided as to how this would function operationally.

*Q. Would the removal of the requirement for the Commissioner to approve the responsible person reduce administrative burden?*

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The feedback we have received from industry is that this would reduce administrative burden.  
A SAFER DRINKING CULTURE

### *Q. What role should SAPOL play in the application process?*

Whilst SAPOL should be able to have input into licensing applications as a key stakeholder, decisions need to be informed by more than just statistics – SAPOL should also be required to reference the objectives of the legislation in their response to applications, and give due consideration to planning controls, desired character, and for the live music sector, industry metrics and issues impacting sector sustainability, as well as the important provision of employment and diversity in the night economy when giving input into licensing applications, just as business needs to give due consideration to community safety.

### *Q. Should the number and hours of trading of licensed venues in an area be a relevant consideration?*

For the live music industry, density is desirable. The great live music cities around the world recognise this and encourage entertainment clusters. These include Lower Broadway – Nashville, Frenchman St - New Orleans, Greenwich Village and Lower East side – New York City. We look forward to more detail being provided as to how this would function operationally.

### *Q. Should closing times, lock-out times or last drinks be set for particular areas?*

Today sees the introduction of new conditions resulting from already extensive consultation on the Late Night Trading Code of Practice. Considering that this issue has only just been through a thorough review we are surprised to be revisiting the exact same issue through a parallel process. The introduction of the City of Sydney CBD Plan of Management, Liquor Freeze and Risk Based Licensing interventions in NSW has seen a significant drop in live music jobs and opportunities. Not only this, but venue owners tell us that there has been reduced programming, less risky programming, and most worryingly and irrespective of what the data says, a significant reduction in industry confidence.

In his 23 December 2015 submission to the Queensland parliament Legal Affairs & Community Safety Committee on the *TACKLING ALCOHOL-FUELLED VIOLENCE LEGISLATION AMENDMENT BILL 2015*, APRA AMCOS Head of Member Services Group Dean Ormston tables the impact of the 1:30am lockout and 3am cease trade on live music revenue in the Sydney CBD;

*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 entry ticket charge at the door. In terms of the lock-out areas, to date there has been an 18% decrease in the value of venue expenditure on live artist performers and a 32% decline in the value of door charge receipts.*

*The APRA AMCOS licence fee for Recorded Music for Dance Use is based on attendance figures. Similarly in relation to the lock-out areas there has been an 18% decrease in attendance figures as reported by venues under the scheme.*

Dean goes on to quote the position of Melbourne Lord Mayor Robert Doyle in Melbourne's Beyond the Safe City Strategy, 2014-17;

*"Melbourne has become a 24-hour city, which is recognised as the most liveable and friendly city in the world. This reputation means we are attracting more residents and visitors every year...."*

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*“In this new strategy we look beyond a reactive approach to city safety and embrace innovative, modern solutions that are embedded in the very foundations of our city.”<sup>1</sup>*

We submit that the government should now work with the new The Late Night Trading Code of Practice, as well as support visible policing, and evaluate their effectiveness first, before introducing any further conditions.

*Q. Is there a need to regulate competition? If so, what regulation is appropriate and in what circumstances?*

We do not support the application of the needs test to any premises or licence category where live music is presented or intending to be presented.

### **VIBRANCY**

Our liquor licensing framework should be modernised to promote greater flexibility and encourage entrepreneurs to emerge with new business models.

*Q. Are the objects of the Act outdated?*

Referenced in S.3 (b) in the objectives of the Liquor Licensing Act 1997, the legislation recognises the close association of the live music industry with the liquor industry;

#### **LIQUOR LICENSING ACT 1997 - SECT 3**

##### **3—Objects**

- (1) The object of this Act is to regulate and control the sale, supply and consumption of liquor for the benefit of the community as a whole and, in particular—
  - (b) to further the interests of the liquor industry and industries with which it is closely associated—such as the live music industry, tourism and the hospitality industry—within the context of appropriate regulation and controls;

The Music Industry Council raises the importance of this reference, and the implications for the review of the licensing framework, that consideration is given to the interests of the live music industry throughout this process as individual discussion items are appraised.

*Q. Do annual liquor licence fees need to be reviewed?*

We oppose the introduction of risk based licensing on the model that has been introduced in NSW in particular. The experience of venues has been that the risk assessment is inflexible and without nuance, and does not reflect genuine risk at all, indexing primary purpose entertainment premises with primary purpose drinking venues.

*Q. Should small venue licences currently restricted to the CBD be available in other locations?*

The availability of small venue licenses in areas outside of the CBD would notionally provide employment and creative opportunities for the music sector unless consent authorities subvert the intent, and is definitely supported. Identifying potential metropolitan and regional areas for availability would help develop live music precincts, which could be complemented by the introduction of the proposed Low Risk Arts and Cultural Venue BYO licence.

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<sup>1</sup> Beyond the Safe City Strategy, 2014-17

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*Q. Is the requirement to apply separately for an extension of trading hours or entertainment consent unnecessary red tape that impacts vibrancy?*

Subject to evaluation after an annual review of the removal of entertainment consent conditions between 11am and 12am in December 2015, the separate approval for entertainment should be abolished unless an evidence base can be produced that supports its retention.

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We thank you for this opportunity, and look forward to further participation the review process,

Yours sincerely,

Lisa Bishop | General Manager, MusicSA

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John Wardle, Policy Director, Live Music Office