

## **MCA update - NSW live music regulatory reform - September 2008**

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John Wardle

## Recent Developments

This paper includes:

- ▶ A timeline to review the work that has been done in recent years.
- ▶ A discussion of the changes to NSW liquor laws to encourage live music.
- ▶ A discussion of the changes to NSW planning laws to encourage live music.
- ▶ A speech in the NSW Parliament from Virginia Judge MP discussing the benefits for the creative sector from the changes to NSW liquor laws.
- ▶ A speech in the NSW Parliament from Virginia Judge MP discussing the benefits for the creative sector from the changes to NSW planning laws.
- ▶ A media release from the NSW Government on the compliance campaign for employers in the music industry.

## Timeline

*The following timeline is an edited discussion to give context to the work that has been done in recent years.*

2003 - [Vanishing Acts](#) report into declining live music in NSW is tabled

2004/5 - [NSW Premiers Department prepare a Live Music Issues Paper](#) which raises liquor and planning reform as an important priority for Government to cut red tape for the live music industry.

2005, May - Liquor Bill 2005 - Consultation is undertaken on proposed liquor legislation and related reforms for the live music industry.

2005, May - The Sydney Morning Herald publishes "[Anything but an excess of venues](#)", a feature article on the campaign to cut red tape for live music.

<http://www.smh.com.au/news/Music/Anything-but-an-excess-of-venues/2005/05/24/1116700705514.html>

2005, December - The Melbourne Age newspaper publishes "[The trouble with Sydney](#)", a feature article on declining work opportunities for musicians in NSW.

<http://www.theage.com.au/news/music/the-trouble-with-sydney/2005/12/15/1134500941583.html?page=fullpage>

2006, February - Liquor Bill 2006 - Further consultation is undertaken on proposed liquor legislation and related reforms for the live music industry.

2006, April - The Sydney Morning Herald publishes "[Licence to thrill](#)", another feature article on the campaign to cut red tape for live music. <http://www.smh.com.au/news/music/licence-to-thrill/2006/04/19/1145344159255.html>

2006, December - The NSW Parliament passes the Environmental Planning and Assessment Amendment Bill 2006, that includes the Transfer of Functions Bill, where the previous NSW dual development application "Place of Public Entertainment" process was reduced to a single development application, paving the way for the development of a new certificate process under a State Environmental Planning Policy.

2007, January - The Sydney Morning Herald publishes "[Rhythm and booze: we'll drink to that](#)", an article that announces the new entertainment venue on-premises liquor licence.

<http://www.smh.com.au/news/national/rhythm-and-booze-well-drink-to-that/2007/01/10/1168105052385.html>

2007, March - June - extensive consultation is undertaken with the NSW Department of Planning on the development of a certificate process for "Places of Public Entertainment" under a State Environmental Planning Policy.

2007, September - The NSW Department of Planning launch a certificate process for "Places of Public Entertainment" under a State Environmental Planning Policy,

[STATE ENVIRONMENTAL PLANNING POLICY \(TEMPORARY STRUCTURES AND PLACES OF PUBLIC ENTERTAINMENT\) 2007](#)

This policy unfortunately fails to deliver the outcomes that were intended from the reforms, and we reconvened with the department immediately in 2008 to start again on the design of a regulatory environment under NSW Planning legislation to correct the inefficiency and dysfunction of the PoPE process.

2007, September - John Wardle helps establish the “[Raise the Bar](#)” campaign, to encourage the NSW Government to also make liquor reforms for small bars and restaurants also a priority as the liquor laws go to cabinet. This campaign also came into play as the later reforms to NSW PoPE laws went before the Parliament in 2008.

2007, November - The NSW Government announces the new [Liquor Bill 2007](#) will go before Parliament in December. The rewrite of the Liquor Act 1982 followed more than 900 submissions to the 2005 bill, 450 of which related to the issue of live music.

2007, December - The NSW Parliament passes the Liquor Bill 2007, which includes all the important reforms that the musicians had worked for over the preceding years.

2008, January - April - Further consultation is undertaken with the NSW Department of Planning on amendments to the Environmental Planning and Assessment Amendment Act to reconfigure the definitions of “Places of Public Entertainment” under NSW Planning laws.

2008, May - The Sydney Morning Herald publishes “[Live music the winner if Sartor bill is passed](#)”, an article that announces the end of the Place of Public Entertainment PoPE process for NSW.  
<http://www.smh.com.au/news/national/live-music-the-winner-if-sartor-bill-is-passed/2008/05/15/1210765059754.html>

2008, June - NSW Parliament passes an Act amendment to remove “Place of Public Entertainment” from the NSW Environmental Planning and Assessment Act. This incredible win was a result of extensive lobbying and consultation with the Government after the previous Act amendments and the introduction of the certificate process in September 2007 failed to deliver the outcomes that were intended.

2008, July, The new liquor laws for NSW commence on July 1.

2008 - July, NSW Office of Industrial Relations initiates an [education and compliance campaign](#) to encourage fair and productive workplaces for musicians in NSW and discourage unscrupulous business practices in the industry.

2008, September - Further consultation continues with the NSW Department of Planning on the new planning process for live music under the Environmental Planning and Assessment Amendment Act subsequent to the removal of “Places of Public Entertainment” from NSW Planning laws in June. There is an intent that the new processes will have a commencement date by the end of the year, however, there is still more analysis underway, and this deadline may not be able to be adhered to. This continues to be a challenging and difficult process.

## Liquor Act reforms

The commencement on July 1 2008 of a new Liquor Act for NSW sees the introduction of new provisions designed to support the live music and entertainment industry in NSW.

- ▶ A new class of liquor licence
- ▶ The Objects of the Act now reflect the interests of the live music and entertainment industry
- ▶ Order of occupancy considerations in complaints processes
- ▶ Minors are now able to perform in licensed premises.

### A new class of liquor licence

A new class of liquor licence has been created specifically for the creative sector.

The new [Public Entertainment Venue On-Premises](#) liquor licence replaces the previous theatre and \$60,000 Nightclub licence with a \$500 licence that applies to all primary purpose entertainment venues in NSW.

A public entertainment venue is described in the Act definitions as:

"public entertainment venue" means any of the following:

- (a) a cinema,
- (b) a theatre,
- (c) premises in respect of which the primary business or activity is the provision of entertainment to members of the public by a person who is physically present on the premises and is actually providing the entertainment.

This can include venues such as a nightclub or premises holding concerts, sporting and cultural events.

Under an on-premises licence, liquor can only be sold or supplied with another product or service – such as entertainment or meals. The sale and supply of liquor cannot be the primary purpose of the business.

Public Entertainment Venue On-Premises liquor licenses can also apply for a primary service authorisation where alcohol can be served at any time.

The application fee for an on-premises licence is \$500.

An application form can be downloaded at [www.olgr.nsw.gov.au/liquor\\_forms.asp](http://www.olgr.nsw.gov.au/liquor_forms.asp)

A fact sheet is published by the department for this licence. [http://www.olgr.nsw.gov.au/pdfs/L\\_FS\\_PEVL.pdf](http://www.olgr.nsw.gov.au/pdfs/L_FS_PEVL.pdf)

## Objects of the Act

### LIQUOR ACT 2007 - SECT 3

#### Objects of Act

(1) The objects of this Act are as follows:

- (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.

The objects of the act must be regarded in deciding any matter before the licensing authority. This provision is intended to recognise the value and importance of live music and to make its interests a relevant consideration in licensing matters such as applications and amenity or complaints processes as well as the variation on trading hours and conditions or transfer of licenses. At this time only New South Wales, Western Australia, and South Australia have a specific reference to live music and entertainment in the objects of their Act. This reference can be seen as desirable by the live music and entertainment industry, as well as by the various hospitality industry liquor licenses, as it can also deliver context in arbitration for complaints and can be very much a positive consideration in what is a heavily regulated area associated with risk.

## Order of occupancy

### LIQUOR ACT 2007 - SECT 81

#### Decision by Director in relation to complaint

(3) The [Director](#) is to take the following matters into consideration before making a decision under subsection (2):

- (a) the order of occupancy between the [licensed premises](#) and [the complainant](#),
- (b) any changes in the [licensed premises](#) and the [premises](#) occupied by [the complainant](#), including structural changes to the [premises](#),
- (c) any changes in the activities conducted on the [licensed premises](#) over a period of time.

Venues that host live entertainment are by nature vulnerable to noise complaints as well as the amenity issues that result from collective behaviour at performance times. The gentrification of traditional live music precincts and the loss of performance opportunities in local Hotels in particular has been facilitated by noise complaints processes that did not take into account order of occupancy between the venue and the complainant, structural and material changes to either premises as well as any changes in the entertainment activity in the licensed premises undertaken over time.

Order of occupancy can also be referred to as "agent of change" ( where the onus is on the party who has made the recent move, either by introducing music, or moving in next door) or "prior use" principles ( where the activity is indexed to the use of a premises such as a Hotel for example, which whilst it may not host live entertainment all the time, has been a fixture in the local area, and there is a reasonable expectation that live entertainment is an activity you would normally associate with a consent for this type of land use.)

Whilst residents neighbouring venues certainly have the right to expect a reasonable amount of amenity , Order of occupancy considerations in noise complaints processes can help protect against unreasonable expectations of what types of activity can be expected in inner city areas and where residential and hospitality industry venues are in close proximity to each other.

#### **Consideration of structural changes.**

New South Wales now has a reference in the complaints process for liquor licensed premises where either party, as well as raising any change in activity over time, can also table the implications of any structural changes to either premises, being the entertainment venue, or neighbouring land uses.

These provisions come under the general umbrella of "order of occupancy" considerations and are supported by a reference in the objects of the Act, and will also provide more certainty for responsibly managed premises that contribute to, rather than detract from, local amenity.

#### **Intensification of use protection.**

Complaints regulation and arbitration procedures that can assess any changes in entertainment activity over time offer protection to residents as well as consent authorities from any intensification of use arising from licensed cafes or restaurants, for example, with small scale entertainment ancillary to the existing hospitality industry consent, evolving into high impact nightclubs.

Queensland, South Australia, New South Wales and Western Australia are currently the only States which have this type of context and flexibility in arbitration procedures for liquor licensed premises. This can be seen as a positive provision by both residents and licensees as it can give residents a forum in which to raise concerns if the entertainment is getting out of control, without killing the activity altogether.

Again, these provisions come under the general umbrella of "order of occupancy" considerations and are supported by a reference in the objects of the Act.

#### **Minors able to perform in licensed premises.**

##### **LIQUOR ACT 2007 - SECT 123**

##### **Minor not to enter or remain in certain licensed premises**

- (3) A [minor](#) does not commit an offence under subsection (1) (a) if the [minor](#):
- (b) is performing in a show or other live entertainment performance held in the [bar area](#),

The introduction of section 123 (3)(b) of the NSW Liquor Act 2007 specifically prescribes that minors can now work as performers in licensed premises (whilst in the company of a parent or guardian), enabling the under 18's to commence their apprenticeship alongside established professionals whilst also being able to earn an income at the same time.

The ability for under 18's to perform under conditions will have additional benefits for parents who play music who wish to encourage their children to work alongside them, and to broaden the influences of minors and their peers as they are exposed to more diversity and opportunities for live music.

## Place of Public Entertainment reforms

Subsequent to the recent Act amendments to the NSW Planning laws, an entirely new process for planning and compliance for entertainment premises is currently being developed. There is an intent that the new systems will commence by the end of the year, however, considering the difficulties and delays experienced in the recent interventions in this area, I am not holding my breath.

## APPROACH

- A focus on ensuring the appropriate consideration of safety and amenity issues associated with the use of facilities for entertainment as those venues may require a higher level of fire safety measures.
- The approach is to ensure that new facilities providing entertainment or which have the potential to provide entertainment are built to provide appropriate safety and amenity outcomes at the outset
- Where there is a proposal to add entertainment to the use of an existing facility, the approach is to make it clear that a change of use to add entertainment:
  1. With no or very minor works and no change in safety requirements can be considered to be ancillary to the main use or exempt development
  2. With minor works and minor changes to the safety requirements can be considered exempt or complying development
  3. With more major works or changes to safety requirements to satisfy requirements will require a modification to an existing development approval
  4. With major changes to the building and safety requirements will require a new development application

The guideline will identify a range of uses and works that may occur in different classes of entertainment facilities and other types of venues that fall into the four classes of changes to existing facilities.

In addition, the new guidelines will provide guidance on options for the use of the new provisions in the Act which allow consent authorities to set core hours and core facility capacity numbers and reviewable hours and capacity numbers which provides some flexibility and incentive for the operator to run the facility in a manner to minimise safety risks and offset impacts.

The key matters that required to be addressed when considering an application for an *entertainment venue* are:

- Personal and property safety associated with fire risk;
- Adequate ongoing management of the premises;
- Noise and other potential amenity impacts, particularly in relation to sensitive land uses such as residential premises.

## Existing Premises

The new regulatory regime associated with *entertainment venues* also recognise that many existing premises operate under old approvals dating from past legislation, including the Local Government Act 1919 (development consents issued prior to the EP&A Act).

In some case there may be premises that rely on existing use rights as a result of having operated prior to the advent of any town planning legislation, notwithstanding Place of Public Entertainment Approvals that may have been issued under the Local Government Act over time.

These old approvals may not address public safety and community impacts and issues to the extent that contemporary approvals are able to. As a result, where these old approvals are still being relied upon by operators, councils can be limited in their ability to address current problems and issues – particularly related to amenity impacts.

The past system of Place of Public entertainment approvals, often operating as existing renewals, allowed councils to exercise some influence and control, but as these no longer exist, alternative options for maintaining reasonable minimum operating standards are needed. It is also of note that former Place of Public Entertainment Approvals that were issued under section 68 of the Local Government Act, were issued to a person, whereas development consents are associated with land, and are not applicant or person specific.

New provisions, requiring operational plans of management to be prepared and implemented, have been included in amendments to the EP&A Regulation 2000.

## LIQUOR BILL 2007

### Agreement in Principle

4 December 2007

Debate resumed from 28 November 2007.

<http://www.parliament.nsw.gov.au/prod/parlment/hansart.nsf/V3Key/LA20071204038>

**Ms VIRGINIA JUDGE** (Strathfield—Parliamentary Secretary) [10.25 p.m.]: As a passionate supporter of all the creative industries I am absolutely thrilled about, and pleased to speak in support of, the Liquor Bill 2007, the Casino, Liquor and Gaming Control Authority Bill 2007 and the Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Bill 2007. I commend the Minister for Gaming and Racing, and Minister for Sport and Recreation, his hardworking ministerial staff and the department for all the work they have done to bring the bills to the Chamber tonight. The Minister has eruditely talked about the wide-ranging benefits associated with this new liquor licensing framework. In my presentation tonight I would like to primarily focus on the great benefits and outcomes that this will bring to the wide range of those involved in live performance industries.

Many people that I have spoken to support the new liquor laws. All are seeking a safe place for us to not only listen to but also see and be part of live entertainment. The musicians I have spoken to are also looking forward to the modernisation of our liquor laws. For example, I have spoken recently with Paul Joseph, a musician since 1983. He has been playing professionally for more than 30 years. He is a very talented and experienced person. He has told me that in the past 15 to 30 years there has been, sadly, a steady and constant decline in employment opportunities across the board for professional players. As hole-in-the-wall venues were unable to comply with the rigorous and over-the-top licensing regime, little venues started to disappear suddenly and without explanation, without a trace. Everyone started to wonder why this was happening. Many fine musicians in this State, very sadly, lost the opportunity to find work. Perth, Adelaide and Melbourne have healthy, vibrant music scenes. It is absolutely imperative that we do not waste an instant and that we provide the environment and culture for these music scenes to grow and to flourish.

Currently in Sydney if people want to see a band it is commonplace for them to have to walk through a venue, sometimes a club, past wall after wall of poker machines, and finally find a small, stale room where they might see some live entertainment. That is very uninviting and totally inappropriate for families, especially those with small children, and for our youth. I am not criticising our wonderful clubs; everyone in this Chamber knows how much I have fought for, and try to support, the club movement. Many clubs are doing a fantastic job; they are thriving and prospering, and so be it. They put so much back into the community through their benefits scheme. We should be able to take our children and young people to see and hear affordable, good-quality live music. It is great if people can go to a venue and see someone like Justin Timberlake and cough up the \$145 or so to do it, but that is not for everyone. There has to be choice.

The reforms that will come about as a result of these bills will make a profound change to our cultural heritage. Sydney was once recognised as one of the great music centres of the world. Many musicians gravitated to Sydney, even those from New Zealand. Sydney was recognised and talked about as a great cultural hub. Indeed, many of our great bands that have become internationally famous cut their teeth in this music scene, some in venues in King Street, Newtown, others in the southern and western regions. They had a chance to cut their teeth as part of the live music scene. Of course, the economic value and the export dollars that this reform will bring will guarantee wonderful benefits to New South Wales and to our city, but also will benefit the cultural environment.

Many musicians have told me that the only place they can find work is in an RSL club, which is great. They also play for corporate clients. Their choices have been severely restricted. There is a ripple effect from the thousands of fine musicians who are out of work. Many people in ancillary occupations suffer similarly because ancillary people go with live music and live venues. A musician should be financially stable just like every other talented and skilled person. One musician told me that he travels to a show, unpacks, practices, performs, prepares the pays and packs up and, excluding his travel costs—the petrol, wear and tear on his vehicle and so on—he ends up working for around about \$2.50 and \$5.00 an hour. That is absolutely appalling. Plumbers and sparkies can earn \$75 an hour. That is good, but why can our talented musicians who have studied for years not be treated fairly? I cannot understand why members of the Opposition are not champing at the bit to support this legislation.

[*Interruption*]

Not everyone fully supports it. Comments were made about insufficient consultation. The draft bill has been out for 18 months, which is plenty time for consultation. Every day that we dilly-dally limits the opportunity for musicians to improve their situation. Some members over there must live in a cocoon or a bubble; they do not know what is happening under their very noses. They should take a walk around the streets and look at what is happening. Legislation will no longer stifle musicians from playing to the public and promoting their music. These reforms will provide for lively entertainment. Of course, competition will still be an aspect of the industry, and that is great because it will provide musicians with the opportunity to hone their skills, which will benefit everyone.

I also spoke with Richard Ruhle, a blues drummer and industrial organiser with the musicians section of the Media, Entertainment and Arts Alliance. He said that the live music industry has been regulated out of existence and that these changes are a big step towards reversing that terrible situation, or at least providing the opportunity and incentive to change it for the music industry. I hope these reforms create greater competition and more opportunities in hotels, clubs and licensed venues. It would be wonderful to revert to the 1980s and 1990s, when it was possible to be part of the vibrant music scene and to watch 100 musicians playing every night in the hub of the city.

I recently organised a concert in my electorate of Strathfield—the greatest electorate in the State, although some members might disagree. One of the reasons I organised Oz Rock Rescue at Burwood Park was to provide a venue for musicians. The performers included Backsliders, Rattlesnake, a couple of young men from Liverpool and some very fine Australian musicians who did a Pink Floyd extravaganza. In fact, that act had a two-night engagement at The Basement. How many places like The Basement are there left in the city?

**Ms Clover Moore:** One! The Basement.

**Ms VIRGINIA JUDGE:** There are very few. Performances on both nights were sold out. My hardworking colleague the member for Sydney endorses what I am saying. She knows what is happening in the city. We need more venues at which these people can perform to vibrant audiences of people who enjoy this great music. Of course, music has a great civilising effect. It helps to build communities and to connect people. Everyone benefits from the music scene. Dave Theak, a lecturer in jazz studies at the Sydney Conservatorium of Music, has advised me that Australia produces world-class jazz musicians and that we must make it easier to set up venues so these musicians can practise their craft. That says it all. It is great to hear support in that regard from my colleagues. They know that this legislation will facilitate that goal.

A nightclub licence in Sydney costs \$60,000 under the current Liquor Act. Presently grassroots venues and alternative entertainment are not viable and that diminishes the cultural landscape of our city and our State. With the enactment of this legislation the licence fee for live music venues will be about \$500. These reforms specifically encourage grassroots entertainment while also supporting larger initiatives. The creation of a new on-premises liquor licence for live music venues will bring a number of existing licence categories into a single, simpler and cheaper class that will support entertainment venues in New South Wales for years to come. That is great. These bills provide a series of eagerly anticipated reforms that will benefit the live music sector and offer public entertainment in cinemas, theatres or any other premises whose primary activity is to provide entertainment to members of the public.

Many Australians are screaming for an alternative to reality and pay television. Music lovers want live music—be it fringe, reggae, developmental, hip-hop, grunge, opera or divas. Creative industries also want live entertainment—be it Shakespeare, poetry, storytelling, recitals or stand-up comedy. Some clientele may even want to have debates and discussions at their local invite-a-politician night and spend an evening discussing representative democracy interspersed with music. Why not? The world is our oyster. These reforms will unshackle the live music industry, enhance the quality of entertainment venues, strengthen the tourism and hospitality industries and ultimately give everyone more choice.

More than 900 submissions were received during the consultation process from community organisations, the general public, local councils, businesses and industry associations and government agencies. That was a lot of consultation. Of those 900 submissions, 650 were about the struggling live music industry. I hope that these reforms will result in the revival of the village artist, the neighbourhood poet and the backyard musician. I hope that they will create family-friendly watering holes on our local street corners for neighbours to meet. They will provide a place for family and friends to celebrate and share experiences, to soothe the soul—or perhaps to enliven it—to cure loneliness or perhaps to rebel against mainstream media and large sports screens. They are fine, but we need more choice.

## MCA update - NSW live music regulatory reform - September 2008

In 1998 the Musicians Union of New South Wales surveyed its members on why work was disappearing. The driving force behind this survey, Professor Bruce Johnson, then teamed up with Dr Shane Homan. In the 2003 they received funding from the Australia Council and the New South Wales Ministry for the Arts to prepare the "Vanishing Acts Report". The findings in that paper then informed the drafting of an issues paper for government by the Premier's Department in early 2005. Special mention must be made of the contributions of Victoria Owens, Program Manager, Music, from Arts New South Wales, who has played a major part in the implementation of these reforms, Shane McMahon from Arts New South Wales, Richard Ruhle from the Musicians Union and the Media, Entertainment and Arts Alliance, and, of course, John Wardle. John is in the Chamber with supporters tonight. I am inspired by the enormous amount of work he has done on this issue over 3½ years. I have heard that he is a talented musician. He knows many people in the industry and I trust and have faith in his briefings. I commend him for his energy, drive and intelligence.

These new liquor laws strike a balance between community and music industry needs now and into the future. This is yet another example of the Iemma Government taking proactive steps to provide the best possible environment for all. I encourage all members of Parliament to support these necessary reforms.

## ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT BILL 2008

### Agreement in Principle

<http://www.parliament.nsw.gov.au/prod/parlment/hansart.nsf/V3Key/LA20080603041>

3 June 2008

Debate resumed from an earlier hour.

**Ms VIRGINIA JUDGE** (Strathfield—Parliamentary Secretary) [9.52 p.m.]: I support the Environmental Planning and Assessment Amendment Bill 2008. I commend the Minister for Planning, his staff and those of the Department of Planning for their energy and the effort they have expended in bringing this important legislation to the Chamber. I know that many in our community, particularly musicians, are keenly interested in the bill. Indeed, people have spent hours preparing extremely thoughtful and thorough submissions on the legislation and their views have been canvassed widely in the community. I thank the Minister for taking the trouble to ensure that all members of the community were consulted, especially regarding the State's live music industry.

As some members may know, many years ago I was privileged to study music at the Canberra School of Music, and completed a double music major. I do not call myself a musician because I am not very talented in that area—I wish I were. But during my course I got to know a number of very fine musicians and others who worked in the industry in the Australian Capital Territory. When I moved to Sydney I continued my keen interest in, and support of, music. I have taught music at primary and high schools, produced musicals and established orchestras. However, I am a musical novice; I have never made a living from music—although I have often thought how wonderful it must be to do that. But in order to make music, one needs a venue. That is one of the reasons that I am so pleased to speak in support of the bill.

Through this bill, the Government is providing even greater support to the State's live music industry. The bill contains a proposal to simplify the planning process further for hosting live entertainment in pubs and bars. The proposal removes the definition of a "place of public entertainment", preventing a local council from potentially requiring an additional application for even minor forms of light entertainment. Under the current system, places of public entertainment licences are effectively a duplication of an existing process. Many in the industry claim that the current system is expensive, difficult and highly complex—not to mention highly anti-competitive.

Under the changes, owners will no longer have to go through the rigmarole of wading through enormous amounts of red tape to allow musicians to perform in their venues. I believe this will make an immense difference and greatly improve the live music industry. The changes remove an anomaly that currently allows councils to request a development application based on the type of venue and the type of entertainment to be provided. This has the potential to be an unnecessary and highly undesirable hurdle to the provision of live entertainment in venues across the State. Nobody wants their local pub to have to lodge an entire development application simply to have a guitarist strumming quietly in a corner—especially when the same venue could install a big-screen television to broadcast sport, which would have a similar impact on amenity, without lodging a development application. It is really quite staggering, but that is the situation we are taking action against and remedying.

The proposed legislation will concentrate on what is really important: the safety and amenity of patrons and locals. Fire safety and construction compliance will be addressed at the development application stage while amenity impacts and population capacity will be addressed by the introduction of new provisions under clause 80A of the Act. This will put the emphasis on safety and amenity and not on whether the live entertainment should be allowed. Two of the biggest cities in New South Wales—the City of Parramatta and the City of Sydney—have already welcomed this proposal. Furthermore, in the bill before us we have provided that councils will no longer have to require repeat development applications for hours of operation of a venue.

They will have the power to give one up-front approval and the power to review some of the hours any time in the future if the venue is disturbing local people. The new provision, which is based on a New Zealand model, will allow for the reviewable component to be revisited when considered necessary by the content authority without the need for regular new applications. The bill provides that the reviewable condition provisions can be used only to regulate the extended hours of operation, not core hours of operation, and an extended number of people, not core numbers of people.

[*Interruption*]

It is most distressing that Opposition members seem to care not a brass razoo about the bill. They are talking and chatting and moving around the Chamber. This is an important issue that affects many people who are employed in the music industry, which helps to build the culture and fabric of this great city and the entire State. This is a very important bill, and I hope Opposition members are taking note of this debate. The Government is on the front foot when it comes to making changes in this area. The regulations will require the consent authority to identify clearly that the consent is subject to a reviewable condition.

If an applicant is dissatisfied with the review he or she will be able to appeal to the Land and Environment Court, as per the usual planning process. These changes follow a number of other initiatives proposed by the Government to help boost the State's live music industry, thus stimulating new jobs and entertainment opportunities. The Government is committed to promoting live music and other forms of entertainment in pubs, bars and other public venues across New South Wales. The bill is a clear demonstration of this approach.

In preparing for this debate I consulted a number of musicians to gauge their views about the bill. I spoke to Tomson Sowonja, who lives in Croydon in my electorate and who has been a rock and roll guitarist for about 10 years. He told me that in the past decade he has seen many changes in the type, style and number of venues available for use by artists and musicians. He said that many smaller venues have disappeared altogether—which is terribly sad. Because of economies of scale it is often difficult for owners to offset costs, so they try to find ways of making ends meet. Unfortunately, this sometimes means installing a row of poker machines in a room in which bands used to play. He also said that it is very important that venues that are committed to music run a subsidiary facility, whether a bistro or gaming machines, to subsidise the activity of live music.

**Mr Brad Hazzard:** Passing mention, Virginia?

**Ms VIRGINIA JUDGE:** I am saying it is about choice. We want to make sure that everyone has a choice of venues. Our clubs are absolutely fantastic and everyone in the club industry knows that since my entry into this place in 2003 I have been extremely proud to support the club movement. This legislation is about choice and supporting live music. Even some landmark venues—for example, the Annandale Hotel and the Hopetoun Hotel in Surry Hills—have sometimes had to subsidise their ability to operate as live music venues, according to Tomson, with adjunct activities. A whole new generation of musicians is emerging. There is sometimes almost a bottleneck, with so many musicians but not enough venues in which they can perform. It is sad to have these wonderful talented young people, who give up so many years through dedication and practice to become great musicians, and not have the venues so that we can all enjoy their wonderful talents and gifts. I am pleased that so many people agree with me.

**Mr Brad Hazzard:** It has got nothing to do with the bills, but I agree with the member for Strathfield.

**Ms VIRGINIA JUDGE:** It is entirely about the bills because they allow this to happen. It is sad that the member has not read the bills. Mr Sowonja also said he has travelled widely, including overseas. He said it is sad that there is less work and that other musicians have had to move elsewhere to keep performing and to keep a roof over their heads. It is all very well to talk the rhetoric about Sydney as the city for tourists but we must make sure it is a city for people and its residents. A city is not just about businesses, which are important; it is about having a variety of venues where people can attend, reconnect and talk to each other. It is about culture and building our communities, which is another reason why people, our urban consumers, love to live in our beautiful city.

Newtown has a new demographic and its residents want to have venues. In the past a huge number of our great bands cut their teeth in such venues. They should be available to musicians and poetry slams again. It binds a community together; it is part of building a special character and uniqueness of our great cities of Sydney and Parramatta and in rural areas. People can make music and share time, friendship and fellowship together. I also spoke to Keegan O'Shea from South Strathfield who has been on the music scene for some time. He is a guitarist who has been in a band for five years. He has noticed that the scene has become more and more sterile. He said it is different in Victoria and Queensland, and New South Wales needs to make sure that it is ahead of everyone else.

He is keen on the reforms in this legislation, which he thinks will ease the burden, and he is looking forward to a cultural change brought about by them. He said that at some venues he is asked, "How many people will you bring in? If you play can you guarantee 100 people will come? Have you cut a CD?" Basically, he had to justify his attendance and on one occasion he had to pay for a sound technician afterwards.

**Mr Michael Richardson:** Do you like the 130 pages of the bill?

**Ms VIRGINIA JUDGE:** That is not it. I spoke to another very important person, John Heartacre from Croydon near the Strand in my wonderful electorate. He said: I am a musician in a small jazz group. I find the smaller venues intimate and personable. I would love to play in those [sorts of] venues. Musicians like myself don't like the "beer barns".

**Mr Michael Richardson:** Point of order: With the best will in the world, we are debating a planning bill, not a bill about the live music industry. If there is a small section in the bill that has caused the member for Strathfield to waffle on for the past 13 minutes about the live music industry, that is okay, but then she is guilty of tedious repetition. She has repeated herself over and over again about how this bill is all about live music.

**ASSISTANT-SPEAKER (Ms Alison Megarrity):** Order! Raising a point of order does not provide the opportunity to make a speech. The remarks of the member for Strathfield are relevant. Had the member for Castle Hill read the bill he would know that the issues raised by the member for Strathfield are directly relevant. I am sure members are receiving representations on this issue. The member for Strathfield may continue her contribution.

**Ms VIRGINIA JUDGE:** Absolutely. It is a shame members opposite do not bother to do their homework. I am glad I do not live in the electorate of the member for Castle Hill because he obviously does not support the music industry and live entertainment. What a shame! What a pity!

**Mr Michael Richardson:** Point of order: I strongly support the music industry. If I had read the bill I would find the reference. In fact, no bills are on the table.

**ASSISTANT-SPEAKER (Ms Alison Megarrity):** Order! The point is noted.

**Ms VIRGINIA JUDGE:** I have a copy of the bill. Obviously, he is not on the same song book that I am on. To conclude, this is a wonderful initiative. One of my staffers spoke to David Weir, another musician. I spoke to Mr O'Shea and Tomson personally. Mr Weir said he had been working in different styles and he supports this legislation. I have received lots of emails from people who are very happy that the Government is introducing this initiative. I will be gracious and say that all of us, including members of the Opposition, will benefit when we build communities through live entertainment and allow people to express their talents. I wholeheartedly commend the bill to the House.

**Media Release, NSW Office of Industrial Relations**

**NSW workplace inspectors to target the entertainment industry**

28 July 2008  
MEDIA RELEASE

<http://www.industrialrelations.nsw.gov.au/about/services/entertainment/index.html>

NSW Parliamentary Secretary for Industrial Relations, Virginia Judge, has announced workplace inspectors are targeting the entertainment industry as part of a State-wide campaign.

Ms Judge said NSW inspectors would visit up to 400 entertainment industry licence holders across the State during 2008/09 to ensure businesses were competing fairly.

“The campaign, which begins today (28 July), is part of the lemma Government’s ongoing education and compliance program to maintain safe, fair and more productive workplaces,” Ms Judge said.

“The Office of Industrial Relations licences entertainment industry representatives who obtain or organise work for performers such as actors, singers, dancers, acrobats, models and musicians.

“Any person who, for financial benefit, represents performers as an entertainment industry agent, manager or venue consultant is required to hold an entertainment industry representative’s licence.

“NSW industrial relations laws give our workplace inspectors the power to investigate any premises at which the business of an entertainment industry representative or employer is being conducted,” Ms Judge said.

“During these visits inspectors will be providing information and advice on work practices and obligations under the Entertainment Industry Act.

“Inspectors will also check employees are being paid the correct pay rates and accurate employment records are being maintained.

“Employers who ignore minimum legal standards will be prosecuted and can face fines up to \$5,500 for each offence.

“Our workplace inspectors are available to provide information to entertainment industry representatives about their responsibilities and these visits also offer an opportunity for agents to ask questions to ensure they are meeting their obligations to performers,” Ms Judge said.

“These visits ensure an equitable system for the industry by maintaining fair and productive work practices in NSW,” Ms Judge said.

Ms Judge said the lemma Government was providing \$22.6 million in the 2008-09 State Budget - an increase of 7.6 per cent - to support businesses and employees in the NSW industrial relations system.

“The NSW Office of Industrial Relations will continue to play a vital role in delivering fair and effective workplaces across the State,” Ms Judge said.

“During the past year, across all industries, inspectors completed more than 11,000 investigations and recovered \$4 million in underpayments of wages and other entitlements for NSW workers and their families.

“The work records of nearly 28,000 people were checked, detecting 10,000 breaches and more than 2,500 underpayments.

“The NSW Office of Industrial Relations Budget meets the lemma Government’s commitment to provide a system that’s fair to employers and workers and can effectively resolve workplace disputes,” she added.

For more information on the Entertainment Industry for both employers and employees, contact the Office of Industrial Relations on 131 628 or visit [www.industrialrelations.nsw.gov.au](http://www.industrialrelations.nsw.gov.au)

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