

# A portrait of the politician as a young pub rocker: live music venue reform in Australia

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## Abstract

*This paper examines the recent NSW state government reassessment of the role of live music venues, and the gradual inclusion of live music within broader urban cultural policy across Australia. Focusing on Sydney, it maps the live music venue at the intersection of competing policy agendas, alternatively viewed as 'vibrant', exciting sites that represent a rejuvenated inner-city culture; or as sites of disruption, encouraging anti-social activity on the margins of legality (or sometimes both). The 'rehabilitation' of live music in the eyes of key government sectors was not simply a matter of 'good' cultural policy, but the result of a combination of many factors. The paper documents and analyses a six-year campaign by various stakeholders to implement noise, building code, late-night trading and liquor law reforms designed to ensure the survival of live performance venues and scenes.*

## Introduction: live music in the city

Popular music plays an important role in the cultural life of many cities, as a key commercial entertainment option for residents and tourists, and as a particularly powerful means by which cities claim a competitive foothold in the 'selling' of a vibrant nightlife. The suburban or inner-city rock pub, jazz restaurant or dance nightclub has always played an important role not just in the lives and careers of individual musicians, but in the life of cities. The famous jazz clubs of New York or the 'swinging' London nightclubs of the 1960s remain vivid examples of how music venues can come to represent distinct regional experiences, as signifiers of a wider cultural milieu. In the particularly Australian context that I will discuss here, live rock, blues and jazz venues have similarly assumed local and national importance as sites where communities are formed, performance skills tested, and reputations earned (Homan 2000).

How live music performance is regulated and promoted within city structures can tell us much about particular attitudes to commercial entertainment, and the place of popular music in relation to other forms of cultural activity. Street busking regulations, or the closing hours of live rock pubs, indicate the varying state attitudes to both commercial and non-commercial city music activity, and the extent to which the 'polite consensus' (Blum 2001, p. 16) of urban life is allowed to be disturbed.

This article examines the recent New South Wales (NSW) government reassessment of the role of live music venues, and the gradual inclusion of live music within

broader urban cultural policy. Focusing on Sydney, it maps the live music venue at the intersection of competing policy agendas, alternatively viewed as 'vibrant', exciting sites that represent a rejuvenated inner-city culture; or as sites of disruption, encouraging anti-social activity on the margins of legality (or sometimes both). Despite the increasing use of music festivals for tourism and city branding purposes (see, for example, Gibson and Connell 2005; Tessler 2006), the everyday activity of the corner pub or club remains a different matter in the mixture of residential, business and leisure activity and governance.

This case study reflects on the ongoing conflicts between 'cultural'/'creative precinct' conceptualisations of city music-making, which arise from the desire for popular music to be contained within more orderly (gentrified) constructions of the night-time economy. The 'rehabilitation' of live music in the eyes of key government sectors was not simply a matter of 'good' cultural policy, but the result of a combination of many factors. The persistent agitation by a small group of interested parties; the weight of history and city mythology in relation to 'Oz Rock' venues; the cultural interests of state leaders; the desire of NSW regulators not to be seen lagging in legislative reform in comparison with other states: all played a part in regulatory change. As an assessment of the difficulties of enacting policy change, and the reasons behind reform, this case study also offers some insight into the role of the popular music studies academic/musician (in this case, myself and Bruce Johnson) in the 'grey, indeterminate and bureaucratic' (Mercer 1994, p. 17) world of policy.

### **Australian live music infrastructure**

The few strands of popular music policy within Australian arts infrastructure that have existed have focused on recorded production (small levels of funding assistance for less mainstream recordings) and the protection of those recordings in the local market (radio quotas); or the promotion of Australian recordings overseas (export schemes). Local, live performance circuits, ranging from the large annual festivals and stadium tours to suburban bars and clubs, were not considered part of the policy mix for several reasons. First, federal government believed that such an overtly commercial sector of the music industry should exist without assistance, a claim periodically made by the music industry itself, which in the main detested government interference or subsidy. Secondly, audience attendance at live performance events had always been strong.<sup>1</sup> Thirdly, the live music pub/club has been consistently proclaimed as a successful incubator of jazz, pop, blues and rock acts destined for global success. The Australian pub rock experience in particular distinguished local product in a global market; the renowned ferocity of bands and 'punters' provided a distinctive regional characteristic to a local industry built upon an imported cultural form (Homan 2003).

By the mid-1990s, the commercial live performance sector was confronting similar problems across most Australian states. In NSW, local councils continued to vigorously prosecute the 'quiet and good order of the neighbourhood' provisions of the *Liquor Act 1982*, leading many hotels and clubs to abandon live music and the related battles with local residents regarding noise levels.<sup>2</sup> In 1985 changes in building code and public assembly laws (stringent monitoring venue capacities, fire safety and venue exits) had already led some venue owners to question the appropriateness of live rock or jazz as viable entertainment forms. A 1999 Musicians' Union/NSW Jazz Co-ordination survey found that 67 per cent of

musicians surveyed had experienced a decline in live music work (NSW Jazz Co-Ordination/NSW Musicians' Union 1999).

Gambling law changes had also made an impact. Heeding the argument that pubs faced a considerable market disadvantage against their main rivals, the large registered, co-operative clubs, without poker (slot) machines, the NSW Labor government allowed hotels to have up to fifteen machines in 1997. The southern state of Victoria had introduced poker machines ('pokies') in 1992. In South Australia, the introduction of poker machines in 1994 was accompanied by a provision that venues provide entertainment if trading past midnight; yet many hired solo or duo performers and dispensed with larger band formations (A.R.E. 1996). Most states also introduced or reinforced legislation across a range of music venue controls, including security personnel training; the responsible service of alcohol; and the targeting of underage drinkers (Homan 2002). In Queensland, a series of noise battles was fought between Fortitude Valley residents and venue owners throughout the late 1990s. Battles to preserve older venues as heritage sites, such as the Festival Hall in Brisbane, were lost. Some Victorian venues encountered similar resident complaints about noise and conflicting (re)development and uses (Lobato 2006). In South Australia, the combination of noise complaints and the introduction of poker machines had produced some venue closures, and the election of an Upper House MP who had campaigned on a 'no pokies' platform (Live Music Working Group 2001).

Like most cultural workers, musicians exist on considerably lower wages than the rest of the workforce: the median income for Australian musicians (across all forms of music) in 1995 was a mere \$AUS 20,500 (Guldberg 2000, p. 42).<sup>3</sup> Despite Musicians' Union campaigns, any notion that popular music incomes are indexed to inflation is nonsensical, evident in former Mental As Anything guitarist Reg Mombassa's observation that 'bands headlining or supporting at one of those little pubs don't get much more than \$200, and that's basically what we were getting fifteen years ago' (Homan 2003, p. 164). However, these concerns receded in the face of a larger problem: the possibility of not playing at all.

By 2002, most states had begun investigating ways to arrest the decline of popular music venues, driven by the public and private concerns of well-known rock, pop and jazz musicians, media interest and in particular, community concerns about the impact of increased gambling in Australian leisure sites. I wish to now turn to policy developments in NSW, as a means of comparing the NSW government's responses to those of their State Labor government counterparts (all states currently have Labor governments).<sup>4</sup> As the last state to grapple with the series of interconnected issues around the live venue sector, the NSW Labor government's reluctance to examine real policy shifts is instructive in revealing the competing budgetary and leisure interests (and discourses) in policy-making.

## **Sydney: cultural (re)development**

As the national centre of global capital, Sydney has experienced the longest trend of urban change in the nature of its residential, business and leisure patterns. It is also where all multinational music recording companies are situated, along with media/entertainment companies such as Fox Studios, an intensive site of local and global film production that in turn propels a range of secondary industries including back-lot tourism, shopping complexes, bars and nightclubs, and related media production and information technology companies. This media/entertainment precinct immediately

south of the Central Business District (CBD) in turn produced and meshed with upgrading of transport services; the re-zoning of older industrial spaces; and the gentrification of its housing areas. The Fox Studios and its related developments is indicative of the transformation of public and private space in Sydney, 'an outcome of an iterative process between the agglomerative requirements of creative industries and symbolic analysts choosing 24/7 city lifestyles and ease of access to work' (Waitt 2004, p. 19).

In other ways, the city readily incorporated the global template of spatial, class and representational change evident in many global cities' drive towards various forms of regeneration. First, the steady and impressive rise in the property market since the 1980s accelerated class segregation, with working-class populations displaced to the inner and outer western suburbs in search of affordable housing, with relatively affluent suburbs in the eastern suburbs and the North Shore. Older inner-city areas – Glebe, Surry Hills, Newtown, Ultimo and Balmain – have experienced an influx of white collar professionals driven by sharp rises in property values and the promise of a 'cafe culture'. It is thus no accident that the rhetoric of the '24-hour city' emerged in Sydney City Council planning documents from the mid-1990s (Sydney City Council 1995). Secondly, other areas – Darling Harbour, Cockle Bay and the Rocks – have experienced changes in residential and business populations as they were transformed into distinct night-time entertainment districts with an emphasis upon upmarket restaurants, nightclubs, pubs, theme restaurants, museums and aquariums.

Thirdly, the 'universal vocabulary' (Waitt 2004, p. 18) employed by developers and governments in the promotion of these new forms of inner-city lifestyles speaks of exclusivity, in terms of the income demographic they wish to attract; and in the lower income groups they subsequently marginalise. The emergence of a creative area/precinct may well attract likeminded cultural producers. However, it is often the case that such areas are placed out of reach as places in which to live.<sup>5</sup> As Chris Gibson and I have explained elsewhere:

Creative producers add critical currency to these places, generating cultural capital, yet artists themselves are often displaced later in the gentrification process, as the [gentrification] 'frontier' moves through an area, and as property market dynamics limit residential choice and available rehearsal or studio spaces. Those creative workers especially vulnerable to sporadic wage payments . . . are effectively moved on through rising rents, priced out of spaces by redevelopment. Once-abandoned warehouses, that become transient, flexible spaces occupied by 'warehouse cultures' (Shaw 2003a) of artists and musicians (either informally, through squatting, or formally, with low-cost rents), are converted into apartments or restructured as inner-city factory outlet retail spaces. (Gibson and Homan 2004, p. 70)

The property boom, and subsequent changes to residential populations, has thus provoked a perverse programme of social selection, where the more controlled urban environment sought by the new residents is distinctly at odds with its earlier vibrant, cosmopolitan reputation. The paradox of affluent residents seeking a bohemian culture, only to see it destroyed by their cultural tastes and influence, was not lost on media commentators, venue owners and musicians.

So how did such social and spatial changes directly affect the city's live music scenes? Pubs in the revitalised CBD and surrounding areas responded in a range of ways. The rise in noise complaints about music venues increased, which led some venue owners to shift their entertainment to relatively quieter options (music jukeboxes; trivia nights; karaoke; pool tables). Many pubs were gentrified in keeping

with their new clientele and surroundings, selling more expensive boutique beer and wine, installing upmarket bistros, and investing substantially in more comfortable furniture and decor. The most prominent (and it seemed, the most popular) response was to increase the number of poker machines on the premises, as a form of entertainment that constituted considerably fewer noise problems and crowd management than the 'noisy' music venue.

By the 1990s, then, Sydney music venues confronted a range of related problems that threatened the city's reputation as a national breeding ground for emerging popular musicians, and more broadly, as a vital cultural hub:

- (1) Increasing commercial and residential rents, both in the CBD and surrounding suburbs, produced an influx of urban professional populations, changing both the type of inner-city resident and exacerbating the flight of musicians and related music industry workers to less affluent residential areas;
- (2) An increasing number of disputes between local councils, residents and venues about acceptable noise levels and venue trading hours in the revitalised inner city;
- (3) A gradual decline in live music as an entertainment option for venue owners, and a shift to other forms of entertainment, primarily gambling;
- (4) Inconsistencies in local council regulation of music venues;
- (5) A lack of wider consideration about the place of live music within city-wide cultural planning.

These were common nation-wide problems, expressed in different forms according to the liquor laws and unique planning, policing and other regulations in each state.

### The case for change

Several fronts of activity were in evidence after the 1999 Musicians' Union survey provided a *prima facie* case for the decline of NSW venues, and the shift to other entertainment options other than music in those remaining. Academic, jazz musician and arts administrator Bruce Johnson met with representatives from the NSW Premier's office and the Australian Hotels Association in 2000 to discuss potential research and policy directives. Shortly after, Bruce and I obtained funding from the Australia Council and the NSW Ministry of Arts to investigate the health of the live music sector, based partly upon my recently completed Ph.D. history and analysis of music venue regulation in NSW (Johnson and Homan 2003). The report included a questionnaire put to hotel and club managers about the types and frequency of entertainment on their premises.<sup>6</sup> Noise control problems, the inconsistent and fraught process of obtaining entertainment licences, increases in performers' fees and customers' preference for other entertainment forms were the chief reasons given in survey responses for the decline in live music (*ibid.*).

Interviews conducted with several venue managers after the survey process provided useful detail about decisions between the cultural and the commercial: music, we were told, often played an important part in the social fabric of the community and assisted other activities within the venue. Concepts of community, tradition and heritage remained in currency among both musicians and the venue owners. Older industry arguments, like the benefits of unmediated contact between performer and audience, the learning of stage skills and so on, were also cited. At the same time, our research revealed the impact of gambling upon live performance sites. While some venue managers stated that increased poker machine profits had subsidised more live music activity, it was clear that in other venues gaming machines had

displaced music. One venue manager we interviewed told us 'we have to be careful of music levels near poker machines, we don't want the players to leave' (*ibid.*, p. 34). Over the period of our research, we did not hear this sentiment expressed in reverse, indicating the extent of the shift in profit sources and clientele. Hotels experienced a 38.6 per cent rise in profits in their first year of poker machine trading (NSW Gaming and Racing Annual Report 2001).

Of the fifteen recommendations in our report, most focused upon four key areas:

- (1) The establishment of a consultative committee representing all stakeholders;
- (2) Economic facilitation, through arts funding bodies, taxation incentives, and a diversion of a proportion of gambling revenue to fund live music infrastructure;
- (3) Rationalisation of licensing and legislation relating to live music venues and locations, in particular, recognition of 'existing rights' in planning and residential development; and
- (4) Educational programmes raising community awareness, including the introduction into schools of local history projects incorporating the study of local music traditions.

Responding to Musicians' Union pressure, the state Labor government, with Bob Carr as both Premier and Arts Minister, promised in its 2003 election campaign to implement the key recommendations of *Vanishing Acts*. In October 2003 the Ministry of Arts (now known as Arts NSW) convened a Live Music Forum of key government and industry stakeholders (including musicians Lindy Morrison from the Go-Betweens; and Tim Freedman from the Whitlams) to discuss the report's findings.

### Gradual progress

At the first Forum meeting, the place of popular live music entertainment was discussed in relation to a range of government discourses (primarily 'community') and related industry problems (booking agencies; the rights of residents and venues; urban planning). One key recommendation – channelling a portion of gambling income to assist live music – was thought to be impossible. While a Casino Community Benefit Fund did exist, we were informed that its legislative remit did not extend to these kinds of assistance.<sup>7</sup> Nonetheless, the Forum diverged into two working parties, addressing legislative action and education/promotion, respectively. For the first time, planning, licensing, arts and environment departments were collectively turning their attention to issues that warranted a whole of government approach. Noise management, for example, involves liquor licensing (regulation of the individual venue's liquor licence); urban planning (regulation and reconciliation of commercial venues in mixed use/residential areas); and local council (granting and regulation of Place of Public entertainment licences), among other governance issues.

Several events stalled further progress: Premier Carr resigned as Labor leader in July 2005; and subsequent (transport, hospital) political crises facing the new Premier, Morris Iemma, presented the government with more demanding problems. It also seemed that the crucial impetus provided by Carr's department as Arts Minister had been lost. During this period, Richard Ruhle (Musicians' Union) and John Wardle (Sydney Conservatorium of Music) played crucial roles in effectively briefing the Opposition and minor NSW parties (Democrats, Greens) about the need for legislative reform.

An opportunity to gauge the government's intent was presented with the review of the licensing laws – prompted by the National Competition Policy Review's belief that the current NSW licensing system did not encourage market competition. The licensing system was complicated, over-regulated and expensive for both government and venue licensees, with Federal government pressure exerted upon NSW to streamline the number of liquor licences, the licence process and licence costs.

The NSW government was thus committed to a review of both the *Liquor Act 1982* and the *Registered Clubs Act 1976*, and an assessment of whether prior restrictive practices – 'public benefits tests' for new premises; special licensing categories according to form and function of drinking sites; the financial costs of obtaining liquor licences – could be sustained within the National Competition Policy's emphasis upon removing obstacles to consumer choice and new entrants in markets (Department of Racing and Gaming Discussion Paper 2002). As all state governments argued, many 'restrictive' licensing policies were enacted in the name of broader social outcomes (for example, ensuring responsible drinking practices and regulating the acceptable number of licensed premises in any one area).

The review presented an opportunity to address long-standing problems that indirectly affected the entertainment choices of venue owners. The extraordinarily high costs of liquor licence fees, calculated according to liquor sales and the market value of the premises, promoted an industry-wide instinct in licensees to explore the quickest path to recovering their initial investment: the poker machine. More importantly, the rigid nature of licensing categories in NSW has always privileged the *form* of venues, rather than their *function*, with little flexibility for innovative combinations of dining, music and drinking sites.<sup>8</sup> The continuing difficulties with licensing arrangements were discussed with the Minister for Racing and Gaming, Grant McBride, in a meeting with Dick Letts (Music Council of Australia), Richard Ruhle, John Wardle, McBride and his policy staff and myself in February 2006. The Minister stressed the shadow effect of a 'whole of government' approach, citing various policing, planning and liquor industry pressures potentially obstructing the passing into law of the revised *Liquor Act*.

### Changes: the partying Premier

Beyond licensing reform, the differing forms of 'entertainment' and their relative risks in terms of public assembly and safety also needed to be addressed. Simply, live music – including acoustic solo or duo performers – requires a POPE (Place of Public Entertainment) licence, while other venue entertainment, such as gambling and television sports watching, does not. Live performance is thus singled out as a special 'problem' in terms of crowd safety, with no acknowledgement of the many levels of live performance below the larger, frenzied pub/club rock gig.<sup>9</sup>

The other key concern lay in the need to streamline the POPE licence process. The mere presence of an acoustic guitar in the front bar merits an entertainment licence, and introduction to a regulatory 'two-step': firstly, submitting a Development Application to the local council, and proving compliance with Australian building code fire laws, and (more often than not) providing an acoustic report in relation to noise management. A further Development Application is then required to obtain POPE approval that also takes into account local impact statements and related conditions. In addition, the *Vanishing Acts* research had found sufficient complaints about the range of differences and approaches to the POPE process between local

councils, which reflected very different attitudes to live music venues according to suburb.

The willingness to meaningfully debate such concerns within various government sectors reflected (or more probably, coincided with) the personal history of a state leader who understood the individual, social and economic importance of live performance. The Premier outlined how his own popular music tastes were defined along geographical class boundaries:

'I remember seeing Buckwheat Zydeco in Paddington one night, back in the day when westies [young adults from Sydney's western suburbs] with mullets were still welcomed in the eastern suburbs,' he said. 'There were half a dozen of us. It was late nights. I was living at home at Narwee. They (his parents) knew I would be coming home in the early morning hours.' The Premier now yearns for a return of the time when pub rock ruled and his favourite bands like Bandana, The Mighty Reapers and Jo Jo Zep played live . . . 'The live music scene is not as vibrant as it was then,' he said. After school, Iemma studied economics law at university and his first job at 21 was at the Commonwealth Bank offices – but partying was still a priority. (*The Daily Telegraph* 2006)<sup>10</sup>

The new Premier's support for legislative change was reflected in more direct meetings between musician lobby groups and government. In September 2006, Richard Ruhle and John Wardle discussed *Liquor Act* reforms with the Premier's chief of staff. In November, Ruhle, Wardle and NSW Unions Secretary John Robertson were effective in advocating favourable changes in their meeting with state Planning Minister Frank Sartor.<sup>11</sup>

The *Environmental Planning Legislation Amendment Bill 2006*, passed by the NSW parliament in November 2006, addressed some of the chief obstacles to the presentation of live music.<sup>12</sup> Music was no longer singled out as a 'special' kind of entertainment requiring much greater monitoring than other popular entertainments (TV fight nights; football telecasts; poker machine crowds). From 2007, the POPE process is to be streamlined into one application made to the venue owner's local council. Further, the establishment of a new State Environment Planning Policy is expected to standardise venue regulation, and remove processual anomalies between councils. At the same time, Sydney City Council announced a 'Live Lanes' programme devised to reinvigorate some of the city's nooks with 'hole-in-the-wall cafes and bars; public art and event proposals; [and] more cultural and "edgy" after hours entertainment in the southern and Chinatown area' (City of Sydney 2006).

The other key development lies in promised *Liquor Act* amendments. In keeping with his new, public revelations of a fondness for live pub rock nights as a young adult, Premier Iemma stated in September 2006 that the new *Liquor Act* would

. . . be broadened to include specific reference to the development of industries closely linked to licensed premises, including live music and entertainment. It will also include a special category of liquor license for music and entertainment venues separate from hotel licenses. (NSW Premier 2006)

The implementation of a music licensing category would bring NSW closer to interstate licensing (Queensland and South Australia's cabaret licences for music venues), that normalises music entertainment within drinking sites. A key area of further negotiation lies in noise management; 'existing rights' arguments made in the *Vanishing Acts* report – that venues with a long history of live music not be usurped by recent residential influxes and calls for main street 'peace and quiet' – have been considered. The proposed new *Liquor Act* states that 'Amendments will allow the order of occupancy to be taken into account in [noise] complaint matters'; how



long-standing music venues fare in future noise complaints will reveal how 'first occupancy' is defined and considered in suburban struggles between residents and venue owners. Other state governments have adopted various measures to deal with live music in mixed use urban areas. The Victorian government accepted a parliamentary report recommendation for greater soundproofing of new apartments (Live Music Taskforce 2003). The South Australian government provided funding incentives for PA installations, and a 'buyers beware' scheme for those intending to purchase homes near existing live music venues (Live Music Working Group 2001). In a rare acknowledgement of the historic and contemporary value of a vibrant music venue, attempts to proclaim the Esplanade hotel in Melbourne a heritage site were successful (City of Port Philip Council 2003).

The removal of some of the direct and indirect obstacles leading to the choice of live performance as an entertainment option remains unrelated to other reasons for the decline of live rock, pop and jazz venues: for example, new generations of young pub and club 'punters' preferring the festival experience, or finding venues too expensive as drinking sites; or the increasing use of DJs to provide foreground/background 'ambience'. However, the regulatory changes represent a collective encouragement for venues to not immediately rule out music as an option (an increasingly common instinct among publicans). The changes remain minimal in comparison to other states: for example, enforcing new residential developments to soundproof their buildings near venues (rather than the venues in turn increasing their soundproofing), as is now the case in Victoria (Boulton 2004). The NSW government also remains reluctant to channel part of its large gambling profits into live music initiatives, as South Australia and Western Australia have done.

However, other changes in the licensing process may produce a greater diversity of drinking sites. In the past, the licence fee for a hotel was tied to the premises' revenue and site value; the high cost of the licences encouraged owners to promote the quickest means of returns, through the poker machine. For nightclub owners in the CBD, the \$60,000 licence fee is regarded as an exorbitant amount for the provision of a 6 a.m. closing time, and the ability to serve liquor without meals.<sup>13</sup> The draft *Liquor Bill 2005* proposed a new fee structure of \$2,000 for a hotel licence, with a \$2,500 annual renewal fee, with the restaurant/on premises category (formerly \$15,000) reduced to \$2,000. Costs still remain high in comparison with other states (for example, \$533 for a hotel or nightclub licence in Victoria).

While reduced licensing costs may encourage venue owners to consider (or persevere with) live music, the lack of a more specific music-liquor licence allowing a range of musical activity – for example, acoustic guitar players – without the need to observe the current exhaustive licensing process remains a concern (this is proposed in the new *Liquor Bill* to be tabled for legislation in mid-2007). Further, the current regulatory soundscape does not enable or encourage small scale music performances in cafes, restaurants and other public venues:

When you walk down Swan Street in Richmond [Victoria], as opposed to Norton Street in Leichhardt [Sydney], you'll probably come across six musical acts, acoustic or half-amplified . . . It creates a vibrant atmosphere, not like in Sydney. It's time Sydney grew up. (musician Tim Freedman cited in Bartlett 2006)

Within the pub walls, promises to remove long-standing definitions of 'entertainment' in the new Liquor Act place live performance on an equal footing with other pub and club entertainments, removing older references to pinball machines, and

acknowledging that live televised sporting events, for example, attract similar crowds and venue safety risks, yet do not require an entertainment licence (poker machines and other gaming activities remain separate categories of activity). As a 2006 Musicians' Union submission stated:

We seek equal treatment with broadcast sport and amplified background music . . . whilst pool tables and video games are clearly 'amusement devices' under the definitions of the act [sic], no compliance is uniformly enforced, and yet a harmonica requires full process. (Musicians' Union of New South Wales 2006)

## Conclusion

The recent legislative and planning changes represent a shift in the music licensing process from one based upon a series of risk management strategies, predicated upon fearing the worst ('anti-social' behaviour, lack of building compliance, council and resident hostility, increased public safety risks) to providing a structural floor that allows for a greater potential diversity of both venues and music genres and performers. Where Social Impact Assessment reports are required of new premises, the state government has seemingly accepted that a thriving music venue can be considered a benefit to its local community, rather than solely as a public order 'problem'. The inclusion of a 'first occupancy' clause in the noise complaints process, if implemented in the spirit intended, also redresses the considerable regulatory power invested in residents and councils since the 1980s.

While I have outlined recent policy developments in NSW as a relatively straightforward narrative of obvious reforms, the recent speed of events belies the historical, economic and political factors that have obstructed change. Since the 1800s, licensing history in NSW has been dominated by an understanding between the major political parties and publicans that the right to serve drinks is reserved for hoteliers; the rights for restaurants, cafes and bars to serve liquor without meals have always been watered down or dismissed, with the Australian Hotels Association (AHA) arguing that such licences are *de facto* hotel licences. The AHA has enjoyed particularly good working relations with Labor governments and the hotel industry remains a key source of financial support (Jacobsen and Davies 2003).<sup>14</sup> Just as six o'clock closing for NSW pubs was overturned in 1954 through appeals to match the sophistication of international drinking laws, it seems that the small scale of deregulation now on offer is based partly on the realisation that other States had liberalised liquor regimes without serious economic consequences.<sup>15</sup>

However the case was made to different arms of the state government, it was useful to remember that live music sector changes remained at the margins of licensing and planning reforms, not to mention broader cultural policy, which had historically been the preserve of Federal governments. However, all the various state inquiries into the sector supported anecdotal evidence about popular music's contributions to the social and economic health of venues, and the arts more generally. While older industry models of attaining local/national success before attempting to perform on the global stage are becoming increasingly redundant (evident in the career paths of acts such as Jet and Keith Urban), it was clear that those inner Sydney venues that had not succumbed to other revenue options were continuing to produce national and global successes.<sup>16</sup>

Live music remains an important part of city night-time economies, both in terms of representation (a demonstrable sign of a culturally active city) and as

alternative engines of economic growth. Cities as diverse as Newcastle-Gateshead, Brisbane and Glasgow seek to exploit various emergent city music scenes (see Flew *et al.* 2001; Williamson *et al.* 2003; Mean and Tims 2005). Australian cultural policy has not remained immune from the 'creative cities' rhetoric; in Sydney contexts, Richard Florida's work is abundantly cited in Musicians' Union submissions, and Late Night Trading statements from city councils. However, the rhetoric of the 'creative industries' implies, literally, that space is accorded for this work in the city. As Australian debates about the regulation of sound levels in venues have reinforced, the notion of the 'cultural precinct' involves a far greater mix of uses and users than civic respectability allows. In this sense, the danger of a cultivation of cultural diversity and a 'vibrant' nightlife lapsing into a middle-class sameness remains real.

This case study also reinforces live music's different policy needs. As the sites of music performance changed, both in venue types and activity, traditional models of subsidy did not apply. Rather, a detailed inspection of planning, policing and licensing powers, and their deeper structural flaws, as studies in the UK and elsewhere have revealed, the problems of 'draconian magistrates', retail rent, transport and policing are rarely incorporated into city-wide cultural policy (Brown *et al.* 2000, pp. 447–51).

Perversely, a compelling case was made that the commercial, everyday popular music gig had succumbed to 'market failure' through a combination of commercial and regulatory atrophy (cf. Chevigny 1991). The place of popular music within key Australian suburban leisure contexts – the hotel, bar and club – was deemed for a long period to be immune to market forces and demographic and economic change. The promise of small 'café bars' with background piano music, or jazz restaurants, may increase the range of vernacular music activities beyond the larger commercial rock gig.

Finally, the need remains for broader, co-ordinated live music industry policy. The federal review of liquor laws, enforcing some degree of uniformity among the six states and the territories in the name of market competition, revealed what can be achieved through a national approach. A similar national approach to noise laws, removing the city-centric politics of suburban noise disputes, would ensure that the legislative differences between states does not continue to impact upon the opportunities for performers based upon where they live.<sup>17</sup> Within more orderly, gentrified constructions of the night-time economy, the presence of the 'noisy' live music venue remains a key means of assessing our commitment to a diversity of cultural and leisure communities. Perhaps the presence of a politician keen to reminisce about his own teenage, mullet-headed years as a pub rocker is all that is needed.

## Endnotes

1. For example, the Australian Bureau of Statistics found that nationally, 48.7% of 18 to 24 year olds attended a pop music event in 1994; the rate was 26.9% for all age groups (ABS 1995). Popular music use is not only marked by the age of the consumer; as the Bennett, Emmison and Frow (2001) study revealed, class still plays an important role. Workers with the highest education and income levels favour 'high art' music forms such as opera, while those with the lowest education and income levels favoured country and western music (Bennett, Emmison and

Frow 2001, pp. 201–2). Acknowledging the complexity of music tastes within and between class spheres, particularly the differences between consumer tastes and music knowledge, their study nonetheless upholds the historically broad consumption patterns of middle- and upper-class interest in subsidised 'high' musics, and working-class tastes in commercial genres.

2. The competing agendas of rock publican and angry resident were treated as a major storyline in the Australian Broadcasting Corporation's

- 2001 television series *Love Is A Four Letter Word*. Confronted with the complaints of a neighbour unable to sleep due to the pub's band sound levels, publican Angus' response revealed the differing visions of inner-city bohemia: 'What are you doing in bed at 10.30 anyway?'
3. One US dollar is worth approximately \$1.20 Australian dollars. As early as 1983, recommendations were made to relax the rules preventing artists from applying for unemployment benefits (Rowse 1985: 87). In keeping with its commitment to 'creative industries' rhetoric and practice, the British Blair Labour Government's New Deal For Musicians provides unemployed British youth with (somewhat over-regulated) opportunities to seek music careers while receiving unemployment benefits. With the assistance of their New Deal Personal Advisor, Music Industry Consultant and Music Open Learning Provider, youth can opt for training towards self-employment or broader industry education and training (Cloonan 1999, pp. 301–2). In 1998, responding to Australian Labor Party election promises to partly replicate the Blair music scheme (Jinman 1998, p. 7), the Minister for Employment, Workplace Relations and Small Business, Peter Reith asked: 'Does this mean young unemployed people will be able to sit around and strum a guitar and get the dole? Is this concept going to be extended to allow young people to be able to spend their day surfing and claim the dole because they want to become professional surfers? Labor is prepared to spend \$60 million for elites in the arts but they are not prepared to back a genuine program like work for the dole which gives the young a real chance of a real job' (cited in Eliezer 1998). Reducing such schemes to simplistic stereotypes of youth leisure, and their linkage to time-honoured notions of excessive spending on the 'elite arts', was part of a wider Federal Government strategy to entice conservative voters flirting with other right wing parties back to the Liberal fold.
  4. Australia possesses six state governments (New South Wales; Victoria; South Australia; Tasmania; Queensland and Western Australia) and two Territory governments (Northern Territory and the Australian Capital Territory). A national (federal) government has existed since 1901. The three-tiered local council/state/federal system has produced a cumbersome mixture of legislative responsibilities and funding models.
  5. Increasing rents can also, of course, effect changes in retail activity. The City of Sydney Council recently reduced shop rents along Oxford Street in the CBD's east, as an attempt to retain its older bohemian shops, and encourage new clients (Norrie 2006a).
  6. In the survey, bands accounted for one-third of venue entertainment in both pubs and clubs, with jukeboxes more popular in hotels.
  7. In South Australia and Western Australia, tax incentives and small grants were introduced to assist venue owners install PA systems at sites that privileged new original performers.
  8. One example of legislative innovation is the introduction of restaurant licences allowing a portion of floor space to be devoted to drinkers, not diners. This was a symbolic moment for the traditional relationship between the NSW Labor Party and the Australian Hotels Association, in partially dismantling the publicans' sole right to serve liquor.
  9. This argument is certainly not new. In the 1980s, these discrepancies were clear to some: '... as far as the Liquor Board is concerned ... entertainment is viewed as attracting larger crowds than your average drinking hole. Apparently, the members of the Liquor Board need to be taken on a guided tour of the Rocks on a Friday and Saturday night and some of the inner-city and suburban pubs on a Saturday afternoon after the respective rugby matches. The new [1985] legislation is clearly inconsistent and is basically discriminating against musicians' (Kingsmill 1985, p. 15).
  10. Both from working class backgrounds, Lemma's tastes are in striking contrast to former Premier Bob Carr, who amused himself at the Sydney Olympics volleyball by listening to a lecture on James Joyce on his Walkman (Green 2005).
  11. The federal shadow Arts spokesman, Peter Garrett, was also helpful in advocating venue reforms among his state counterparts.
  12. The proposed amendments relating to live music were, however, just one section of a wider set of changes that many believed would further centralise the Minister's influence in planning decisions across the state. The Minister, Frank Sartor, was accused of extending his right of influence in many controversial planning decisions in inner Sydney and regional NSW (Norrie 2006b).
  13. While the high fee is seen to reflect the higher revenues of nightclubs, it also distinguishes the licence from hotel and other on-premises licences.
  14. Indeed, former Premier Bob Carr's chief of staff, Graeme Wedderburn, currently works for the Australian Hotels Association as an adviser (Clennell 2006).
  15. This has not prevented the current AHA NSW President John Thorpe stating that a live music liquor licence is 'pie in the sky stuff ... the effect on our industry would be fairly substantial' (cited in Ackland 2007).
  16. The popularity of a new community radio station with a programming policy of 50% Australian material, Fbi, is also a factor in the resurgence of Sydney's 'indie' scenes.
  17. Funding for a national study of legislative differences between states in regard to live music is currently being sought by Dick Letts of the Music Council of Australia.

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