

Dear Member of the NSW Parliament.

Included in the [Environmental Planning and Assessment Amendment Bill 2008](#) currently before the Parliament are important changes to the regulation of entertainment in NSW..

The NSW Place of Public Entertainment (PoPE) regulation as it stands is a duplication of existing processes, is very expensive, difficult and complex, and highly anti-competitive.

The removal of both definitions of **Public Entertainment** and **Place of Public Entertainment** under Schedule 5 on page 139 of the Bill will finally bring some common sense to the regulation of entertainment in NSW.

This aspect of the Bill is strongly supported by not only the cultural sector, but also councils such as the City of Sydney as noted in this article in the Sydney Morning Herald:

Live music the winner if Sartor bill is passed

Sunanda Creagh Urban Affairs Reporter

May 16, 2008

<http://www.smh.com.au/news/national/live-music-the-winner-if-sartor-bill-is-passed/2008/05/15/1210765059754.html>

John McInerney, a City of Sydney councillor, said no other state had such regulations. He said publicans and cafe owners would still need to meet fire safety and amenity standards when they applied for the council's permission to operate, but the change would remove the need for them to apply all over again if they wanted live entertainment.

"You shouldn't have to apply all over again just because you have a poet or a musician standing up in a corner," he said.

-as well as Parramatta Council in a media release from the Lord Mayor (see attached document – MSPOPE.doc , tabled below)

Fire Safety and construction compliance will be addressed at the Development Application stage in the approvals process, whilst amenity impacts and population capacity will be addressed by the introduction of new provisions under section 80A on page 33 of the Bill.

[21] Section 80A (10B)–(10E)

Insert in appropriate order in section 80A:

(10B) Review of extended hours of operation and number of persons permitted

A development consent that is granted subject to a reviewable condition may be granted subject to a further condition that the consent authority may review that condition at any time or at intervals specified by the consent and that the reviewable condition may be changed on any such review.

(10E) For the purposes of subsections (10B)–(10D), a reviewable condition means any of the following:

- (a) a condition that permits extended hours of operation (in addition to other specified hours of operation),
- (b) a condition that increases the maximum number of persons permitted in a building (in addition to the maximum number otherwise permitted).

NSW currently has special variations to the Building Code of Australia (that are indexed to the definitions of **Public Entertainment** and **Place of Public Entertainment** under the EP&A Act), that require the same level of fire safety for a guitar in the corner of a restaurant as for a large darkened cinema with tiered fixed row seating.

The cost of fire compliance that was not necessary for small scale premises or applied to the

A submission on proposed amendments to the Environmental Planning and Assessment Act regarding the regulation of entertainment in NSW

competition to the entertainment dollar such as broadcast sport and gambling was so expensive that small scale entertainment in NSW became unviable, and has been eradicated from our society. The removal of these definitions will allow for existing processes in the Act to be brought into play, and enable a more rational assessment of the space.

We note here that section 209 of the NSW Gaming Machines Act exempts pokies from approvals process and planning regulation under the EP&A Act.

http://www.austlii.edu.au/au/legis/nsw/consol_act/gma2001130/s209.html

The fact that we need an additional approval from a consent authority to sing Waltzing Matilda or read a David Williamson play and yet we can watch violent contact broadcast sport and gamble our parents inheritance away in the same space on rows of pokies, pubtab, keno, and texas hold'em poker without any change of use process through council is frankly *scandalous* – yet an Orwellian daily reality for the creative residents and cultural environment for NSW.

For our identity, our community, and for our economy, this aspect of the Bill is of major importance, and we urge you to support these reforms and not delay the passage of the Bill.

Any adverse impacts on amenity from licensed premises also has an additional protection with the introduction of new complaints process under the Liquor Act 2007

LIQUOR ACT 2007 - SECT 81

Decision by Director in relation to complaint

http://www.austlii.edu.au/au/legis/nsw/consol_act/la2007107/s81.html

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

(c) any changes in the activities conducted on the [licensed premises](#) over a period of time.

This will offer protection to residents and councils from any intensification of use were small scale entertainment to evolve into high impact activity.

These new provisions are of course supported by those such as ourselves who have been submitting and lobbying for change to PoPE regulations for some years now.

Note also that the amendments to PoPE definitions and conditions have changed from those included in the exposure draft.

There has been ongoing consultation throughout the exhibition period, and we thank the Minister and the Department of Planning for facilitating consultation and access.

A submission on proposed amendments to the Environmental Planning and Assessment Act
regarding the regulation of entertainment in NSW

We hope that in the debate on the Bill, your team can speak on the potential for NSW creative industries with the desperately required rationalisation of this appalling over-regulation.

These are important changes not only so that music / theatre / comedy / public speaking can now co-exist alongside broadcast sport and gambling in our community spaces, but also so that the traditional performing arts can survive alongside future leisure trends and technologies as yet undreamt of as the wheels of technological change turn ever more quickly.

Lets not forget about JOBS either please, People are out of work, and not only established professionals but students and graduates across all genres of live performance, whilst the ubiquitous plasma screens and gambling activity that has been unregulated in the same space facilitates the ugly side of globalisation and the homogenisation of our culture.

A person on a screen is not regulated. One physically present is over-regulated to the point of extinction. Please think about that for a minute.....

Best Regards

The Raise the Bar team.



PARRAMATTA CITY COUNCIL

16 May 2008

LORD MAYOR INVITES MUSICIANS TO PARRAMATTA

The Lord Mayor of Parramatta, Cr Paul Barber has invited musicians and entertainers across Sydney to come to city of Parramatta after the proposed abolition of the PoPE (place of public entertainment) process in forthcoming planning reform.

“The overhaul of the laws is a big win for the people of Parramatta. What this bill means is that pubs, restaurants and cafes will no longer have to jump bureaucratic hurdles if they want a bit of live entertainment in their establishments,” the Lord Mayor said.

“It was just absurd that you could put a huge plasma screen in a pub with barely any limitation but to have a jazz band, it would suddenly cost you \$100,000 in red tape and approvals. This is more about cultural reform than anything else and Parramatta City Council welcomes these new laws.” the Lord Mayor said.

Parramatta City Council has made it a priority to create an urban environment that has a night life scene that is cultivated, enjoyable and safe. From Church Street to the riverside, Parramatta now plays host to hundreds of restaurants, bars and cafés

“This new legislation will do more for the employment of musicians and artists than any grant. It will also do much to reverse the negative effect that poker machines and loud TV screens have had on our people and our city,” the Lord Mayor said.

“From pianists, to singers, to jazz bands to comedians, we welcome you to come to Parramatta and create a buzz for the people who already enjoy one of the best night spots in Sydney,” the Lord Mayor said.

“Residents can be reassured that proprietors still have to be aware that normal noise controls still apply and venues that host live activities will need to be good neighbours,” the Lord Mayor said.