



Navigating a new regulatory environment for licenced premises in NSW

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ABSTRACT

Until recently the approach and framework for assessment of noise generated by licenced premises in NSW had been well established. A standard and consistent set of noise *conditions* was applied to venue licences to control entertainment and patron noise. In recent years the regulatory environment has shifted significantly, responding to a state government desire to enhance vibrancy in NSW by creating an environment for venues and artists to flourish. In 2023 changes were passed to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to support the approval of outdoor dining on private land including registered clubs. In 2024 new legislation, the 'Vibrancy Reforms' were passed and subsequently amended, which designate Liquor and Gaming NSW as the lead regulator for noise complaints under the Liquor Act 2007. These changes removed control of noise from venues from local councils, and 'switched off' existing noise consent conditions from approvals. The reforms also enabled the establishment of Special Entertainment Precincts by local councils, with criteria developed for the specific area. As a result of the above changes there is confusion in the consulting community regarding the appropriate assessment approach for licenced premises. This paper summarises the changes and sets out a proposed assessment framework.

1 BACKGROUND & PREVIOUS REGULATORY APPROACH

For several decades, the regulation of noise from licensed premises in New South Wales operated within a stable and well-understood framework. This predictability was a cornerstone for acoustic consultants, developers, and regulators, ensuring a consistent approach to managing acoustic amenity. The foundation of this approach were standard conditions of consent applied by Liquor and Gaming NSW. The standard conditions established a clear, objective, and widely adopted methodology for assessing and controlling noise from licenced premises. The central tenet was the application of an L_{10} noise criterion, stipulating that the L_{10} (or 'average maximum') noise level emitted from the premises should not exceed the background noise level (L_{90}) by more than 5 dB at the boundary of any affected residence before midnight and by 0 dB after midnight. In addition, noise from the licenced premises was to not be audible within any habitable room in any residential premises after midnight (Armati, 1996). This " L_{10} criteria" provided a quantitative target that could be used in predictive modelling during the design phase and for compliance testing once a venue was operational.

The complaints procedure was similarly well-defined, as detailed in the Liquor Administration Board's Fact Sheet 8: Noise Complaints (Liquor Administration Board, 2002). Typically, noise complaints were first directed to the local Council, who would undertake an initial investigation. If the issue persisted or was deemed sufficiently serious, Liquor & Gaming NSW (L&GNSW) could become involved, potentially leading to the imposition of stricter conditions or other enforcement actions.

This framework was so well established in industry practice that it fostered a shared understanding among practitioners and direction from the regulator to industry (Armati, 1996). There was a broad consensus on the assessment methodology (Wheatley, 2011), criteria, and regulatory pathway. This consistency provided certainty for all stakeholders; consultants knew what to design for, councils knew what to condition, and venue operators understood their obligations.

2 RECENT CHANGES IN REGULATION

The established regulatory landscape has undergone a significant shift in recent years, driven by a NSW Government focus on revitalising the night-time economy and supporting the arts and culture sector. This has resulted in a number of legislative and policy changes aimed at reducing red tape for venues and fostering a more vibrant social environment.

The three most significant changes impacting acoustic assessment are:

1. The Vibrancy Reforms (2024), which fundamentally alter the roles of L&GNSW and local councils in noise regulation.
2. Amendments to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 in 2023, which supported the approval of outdoor dining on private land including registered clubs.
3. The introduction of Special Entertainment Precincts (SEPs), allowing for place-based noise management plans.

A Proposed Cultural State Environmental Planning Policy SEPP is also currently under development which seeks to further enhance night-time vibrancy.

These reforms have collectively dismantled the long-standing framework, leading to significant confusion and uncertainty. The following sections provide a more detailed summary of these changes.

3 VIBRANCY REFORMS 2024

Passed in 2024, the 24-Hour Economy Legislation Amendment (Vibrancy Reforms) Bill 2023 (the "Vibrancy Reforms") (NSW Government, 2023 2) represent the most substantial change to noise regulation for licensed premises in a generation. The key changes, as outlined by the Office of the 24-Hour Economy Commissioner (Office of the 24-Hour Economy Commissioner, 2024), are summarised below.

- **L&GNSW as Lead Regulator:** L&GNSW is now designated as the lead regulator for most noise complaints arising from the operation of a licensed venue under the Liquor Act 2007. This transfers primary responsibility away from local councils for entertainment and patron noise.
- **Development Consent Conditions "Switched Off":** Noise-related conditions on a venue's development consent (DA) cease to have effect while the venue is regulated under the Liquor Act. This means that council-imposed noise limits for entertainment and patrons are, for now, unenforceable.
- **Complaint Threshold:** L&GNSW will generally only investigate a noise complaint if it is supported by five or more complainants from different households. This is an increase from the previous trigger of three complainants.
- **Order of Occupancy:** The principle of "order of occupancy" is now a central consideration. This means that when investigating a complaint, L&GNSW must consider whether the venue was established before the complainant's residence, giving weight to the established use of the premises.
- **Live Music Definition:** Putting on live music inside a venue between midday and 10pm, or outside between midday and 6 pm, is no longer considered a "substantial change to the operation of the business," (Liquor and Gaming NSW, 2024) simplifying the process for venues to introduce live entertainment. This position applies to the order of occupancy consideration, i.e. a venue starting live music within the above hours is considered to have prior occupancy even if such music has not been hosted previously.
- **Discretionary L_{10} Condition:** L&GNSW retains the power to apply noise conditions, including the traditional L_{10} criterion, in response to a substantiated complaint. However, the application of such a condition is not guaranteed and will be considered on a case-by-case basis.

The reforms also clearly delineate regulatory responsibilities. Noise complaints that L&GNSW will consider include amplified and live music from licensed premises, use of speakers and PA systems, other entertainment (karaoke,

trivia, comedy), patron noise from within the venue (including entry/exit points) and patron behaviour when leaving a venue (yelling, anti-social behaviour).

Noise complaints L&GNSW will not consider, i.e. where council retains responsibility, include noise from waste disposal and collection, noise from vehicle movements (including delivery services), mechanical plant noise and noise from construction works.

4 SEPP (EXEMPT AND COMPLYING) CHANGES 2023

As a precursor to the broader Vibrancy Reforms, changes were made to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 in late 2023 (NSW Government, 2023 1). These amendments streamlined the approval process for outdoor dining on private land, including for registered clubs. By expanding exempt and complying development pathways, the change made it faster and easier for venues to establish or expand al fresco areas, aligning with the government's objective to enhance street-level vibrancy. From an acoustic perspective, this increased the potential for outdoor patron noise sources that are not assessed by an acoustic consultant.

5 SPECIAL ENTERTAINMENT PRECINCTS

The Vibrancy Reforms introduced the legislative framework for councils to establish Special Entertainment Precincts (SEPs). An SEP is a designated area, which could be a whole neighbourhood, a street, or even a single large-scale venue, where specific planning controls for sound and trading hours are defined in a council-developed precinct management plan (NSW Department of Planning, Housing and Infrastructure, 2024).

The core philosophy of an SEP is a "balanced, place-based approach" where the responsibility for managing noise is shared between the noise emitters (venues) and noise receivers (residents and other businesses). For example, a management plan must set location specific noise limits and require new residential developments within the precinct to be built with enhanced acoustic insulation to address existing and potential licenced premises noise.

While the council develops the SEP and its management plan, L&GNSW remains the lead regulator for entertainment and patron noise complaints within the precinct, enforcing the specific rules of that SEP's plan.

As of early 2025, several councils have either established or are actively developing SEPs. This number of councils with SEPs is expected to grow as more embrace this place-based planning tool.

It should be acknowledged that the NSW Government has published extensive materials to assist both councils and consultants in the establishment of and SEP, including a handbook (Office of the 24-hour Economy Commissioner, 2024), an SEP Handbook (Office of the 24-hour Economy Commissioner, 2025) and a variety of precinct templates (Office of the 24-hour Economy Commissioner, 2025).

6 PROPOSED CULTURAL STATE ENVIRONMENTAL PLANNING POLICY (SEPP)

Further supporting this new direction is the proposed Cultural SEPP. An Explanation of Intended Effect (EIE) for this policy was released for public consultation (NSW Department of Planning and Environment, 2023). The primary goal of the Cultural SEPP is to consolidate and simplify planning controls related to arts, culture, and creative industries into a single, dedicated planning instrument. It aims to make it easier to establish and operate cultural venues—including live music venues, theatres, and galleries—by providing more flexible land use definitions and streamlining the approvals process. This policy, when enacted, will work in tandem with the Vibrancy Reforms to lower the barriers for cultural activities across NSW.

7 HOW WILL AMENITY DISTURBANCE BE REGULATED?

The new framework creates a complex, multi-layered regulatory environment.

A nuance which may be overlooked is the definition of the "licensed premises", being the area licensed by L&GNSW, may change depending on the time of day as defined on the liquor licence. For example, a lounge area might be part of the licensed premises 12 pm – 12 am for serving alcohol. The same area may operate 8 am – 12 pm only for food service and fall outside the liquor licence boundary for that time. In this scenario, a noise complaint at 9 pm would be a matter for L&GNSW, while a complaint related to patrons in the same space at 9 am could become a matter for Council under nuisance provisions of the Protection of the Environment Operations

Act 1997. Another example is the use of a carpark area, outside of the “licenced premises”, for food trucks. In this instance patrons near the food trucks would technically fall under the regulation of council. The acoustic assessment must therefore consider not just the physical space but also the temporal nature of the liquor licence. The table below summarises the regulatory responsibilities for different noise sources, comparing developments within and outside an SEP.

Table 1: Summary of noise regulation responsibility

Noise Source	Regulator Outside a Special Entertainment Precinct (SEP)	Regulator Within a Special Entertainment Precinct (SEP)
Live / Recorded Music (within bounds of licenced premises)	L&GNSW	Per the specific rules of the SEP Management Plan prepared by council, enforced by L&GNSW
Patron Noise (within bounds of licenced premises)	L&GNSW	Per the specific rules of the SEP Management Plan prepared by council, enforced by L&GNSW
Music or patron noise (outside of bounds of licenced premises)	Local Council (via DA conditions and POEO Act)	Local Council (via DA conditions and POEO Act)
Mechanical Services	Local Council (via DA conditions and POEO Act)	Local Council (via DA conditions and POEO Act)
Vehicle Noise (car parks, drive-throughs)	Local Council (via DA conditions and POEO Act)	Local Council (via DA conditions and POEO Act)

8 WHAT DO THE CHANGES MEAN FOR COUNCILS

Despite the Vibrancy Reforms, local councils retain a critical role in noise management. L&GNSW (Liquor & Gaming NSW, 2024) has explicitly advised that "Councils should continue to assess development applications for licensed venues and apply conditions of consent as usual, even though they will not take effect" for example entertainment and patron noise while the liquor licence is active.

Councils should heed this advice. These "dormant" conditions are a vital contingency. They could be "switched back on" if a venue's liquor licence is surrendered or revoked, or if future legislative changes revert regulatory control to councils. Without these conditions on the consent, a council would have little recourse in such a scenario.

Furthermore, councils remain the sole regulator for a significant portion of a venue's acoustic footprint, including all mechanical plant, vehicle movements (including deliveries) and waste management. These sources must be robustly assessed and conditioned through the DA process as they always have been.

A challenge for councils will be what “dormant” conditions should be applied to a venue, particularly with regard to music and patron noise. Some councils have introduced such criteria, including City of Sydney with the introduction of Section 3.18 of DCP 2012 (City of Sydney, 2025), which includes external and internal criteria based on octave band Leq levels being from 12 dB below to 5 dB above background noise levels across four defined time periods. City of Newcastle Council have indicated that they may continue to rely on the “L10 criteria” in the absence of additional guidance, however they may not require post-midnight inaudibility to be achieved (AAAC, 2025). An absence of published conditions from a council in this regard is likely to lead to an inconsistent approach for venues within the local government area and should be a key item for council to consider in policy development.

Assessment teams from councils will need to consider the developer's perspective. With “dormant” DA conditions for entertainment noise being unenforceable in the short term, developers may question the value of investing in acoustic treatments to meet them. This creates a tension between the council's duty to plan for long-term amenity and the developer's focus on immediate commercial realities.

Consideration will also need to be given by councils about how they will encourage developers to make provision for future retrofitting of noise controls or inclusion of such controls initially. They may consider whether approval

of a development application is dependant on the applicant being able to demonstrate whether a venue can comply with the “dormant” noise conditions prior to construction and/or occupancy approval. Lack of a clear and consistent position from a council on this point is likely to lead to inconsistent outcomes within the local government area.

9 HOW SHOULD CONSULTANTS RESPOND

For acoustic consultants, the primary role has shifted from demonstrating compliance with a clear, objective standard to one of risk management and delivering advice such that clients can make informed decisions about their development. The absence of a prescribed noise limit for entertainment does not mean that noise is unregulated; it means the regulation is now reactive and uncertain.

When providing guidance to clients outside a SEP consultants may consider the following framework so that informed decisions can be made by the client:

1. **Assess Against a Council (dormant) Criteria:** Assess against a published council noise criteria, for example if within City of Sydney. Where no council criteria is published assess entertainment and patron noise against an alternative criteria, for example the traditional “L₁₀” criteria (with or without inaudibility target), the “L10” criteria in octave bands for music and as an overall A-weighted level for patrons, Leq based targets in octave bands (similar to City of Sydney approach) or overall A-weighted levels only, as a risk assessment baseline. Ideally this benchmark target should be checked with council. This provides the client with context for their potential acoustic impact against an established benchmark. Alternatively, assessment can be made against the traditional “L10 criteria”, however consultants should be cautious of this approach as it does not align with the NSW Government intent of enhanced vibrancy.

2. **Quantify the Risk:** Clearly communicate the risks to the client. This includes the potential for L&GNSW to retrospectively apply an L₁₀ (or other) noise condition in response to sustained community complaints. The cost of retrofitting acoustic controls into an operational venue is invariably higher than incorporating them during initial construction.

An additional risk for the client to consider is the potential for delays and costs associated with a legal challenge should the client wish to challenge council’s requirements regarding “dormant” conditions.

3. **Future-Proof the Design:** Advise clients that designing to meet the “dormant” council DA conditions is the most effective way to mitigate future risk. This protects their investment against potential legislative changes or a shift in regulatory enforcement back to the council.

4. **Provide a Holistic Assessment:** Ensure a thorough assessment of all noise sources for which Council remains the regulator (mechanical, vehicles, etc.), as these conditions are fully active and enforceable from day one.

The core message for clients is that while the immediate regulatory pressure has eased, the long-term risk of inaction has increased. Prudent design inclusions may be considered a form of commercial insurance.

Whilst some of the unknowns is the current system might encourage consultants to revert by default to assessment under the previous “L10 criteria” and inaudibility requirements it is important to remember that the NSW Government have introduced the regulatory changes with the intent to change the status-quo and encourage a more vibrant community. It is not the role of individual consultants to block such a change. The NSW Government Guide to Better Regulation (NSW Treasury, 2019) does require effective consultation with stakeholders when developing regulatory proposals. Whilst this would not extend to individual consultants it would not be unreasonable to expect that peak industry bodies and technical societies including the Association of Australasian Acoustical Consultants and Australian Acoustical Society should be engaged with regarding the changes and may be an avenue to provide feedback.

10 FURTHER WORK AND UNKNOWNNS

The current regulatory environment for licensed premises in NSW is in a state of transition. While the policy intent is clear—to foster vibrancy—the practical application is fraught with uncertainty. Several key questions remain unanswered:

- How will L&GNSW practically apply discretionary powers and interpret concepts like "undue disturbance" and what noise criteria will they apply in response to complaints?
- How will the "Order of Occupancy" principle be balanced against the reasonable expectation of amenity for long-term residents in evolving neighbourhoods?
- How much variation will exist between SEP management plans, and will this create a confusing patchwork of regulations across different LGAs?
- How will the Land and Environment Court of NSW consider noise from licenced premises?
- How will additional vibrancy reforms and the Cultural SEPP change the approach?

As this new system beds in, it is incumbent upon the acoustic consulting community to monitor developments, share case studies and precedents, and engage constructively with both L&GNSW and local councils. Through collaboration and shared learning, we can help navigate this period of uncertainty and contribute to the development of a framework that successfully balances a vibrant night-time economy with the acoustic amenity of the community.

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REFERENCES

- AAAC Association of Australasian Acoustical Consultants. 2025. Meeting of AAAC representatives with City of Newcastle Environmental health team June 2025.
- Armati, D. B. 1996. *Acoustics associated problems on licensed premises a perspective of the licensing authority*. Liquor Administration Board NSW.
- City of Sydney, 2025, *Sydney Development Control Plan 2012*
- Liquor Administration Board NSW. 2002. *Fact Sheet 8: Noise Complaints*.
- Liquor and Gaming NSW. 2024. *Sound regulation in licensed premises – Frequently Asked Questions*. Retrieved from <https://www.liquorandgaming.nsw.gov.au/community-and-stakeholders/licensed-venues/sound-regulation-in-licensed-premises/frequently-asked-questions>
- Liquor and Gaming NSW. 2024. *Reforms to the regulation of venue sound management*. Retrieved from <https://www.liquorandgaming.nsw.gov.au/community-and-stakeholders/reforms-to-the-regulation-of-venue-sound-management>
- NSW Department of Planning and Environment. 2023. *Explanation of Intended Effect: A new Cultural State Environmental Planning Policy (SEPP)*. Retrieved from <https://pp.planningportal.nsw.gov.au/draftplans/under-consideration/explanation-intended-effect-cultural-state-environmental-planning-policy-sepp>
- NSW Department of Planning, Housing and Infrastructure. 2024. *Special Entertainment Precincts*. Retrieved from <https://www.planning.nsw.gov.au/policy-and-legislation/night-time-economy/special-entertainment-precincts>
- NSW Government. 2023 1. *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*
- NSW Government. 2023 2. *An Act to make miscellaneous amendments to legislation to increase the vibrancy of the night-time economy; and for related purposes*.
- NSW Treasury, 2019. *NSW Government Guide to Better Regulation*. Retrieved from https://www.productivity.nsw.gov.au/sites/default/files/2022-05/TPP19-01_Guide-to-Better-Regulation.pdf
- Office of the 24-Hour Economy Commissioner. 2024. *Vibrancy Reforms*. Retrieved from <https://www.nsw.gov.au/business-and-economy/office-of-24-hour-economy-commissioner/vibrancy-reforms>
- Office of the 24-Hour Economy Commissioner. 2024. *NSW Special Entertainment Precinct Acoustic Toolkit: Optional Sound Guidance and Templates for Councils* Retrieved from <https://www.nsw.gov.au/sites/default/files/noindex/2024-11/special-entertainment-precinct-acoustic-toolkit.pdf>
- Office of the 24-Hour Economy Commissioner. 2025. *NSW Special Entertainment Precinct Handbook Recommended best practice for councils* Retrieved from <https://www.nsw.gov.au/sites/default/files/noindex/2025-06/nsw-special-entertainment-precinct-handbook.pdf>

Proceedings of ACOUSTICS 2025
12-14 November 2025,
Joondalup, Australia

Office of the 24-Hour Economy Commissioner. 2025. *Special Entertainment Precinct Templates* Retrieved from <https://www.nsw.gov.au/business-and-economy/office-of-24-hour-economy-commissioner/vibrancy-re-forms/seps/templates>

Wheatley, G. 2011. *Are we on the same page? A review of the methods and criteria for licensed premises*. Proceedings of Acoustics 2011, Australian Acoustical Society.