

Chief Executive Officer
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Re: Response to 'An Open and Creative City'

The National Association for the Visual Arts (NAVA) is pleased to have the opportunity to make this submission in response to the City of Sydney's Discussion Paper 'An Open and Creative City: planning for culture and the night-time economy', with particular focus on Action 3: Allow minimal impact small-scale cultural uses without development consent.

NAVA commends the 'Open and Creative City Discussion Paper - October 2017' for identifying the urgent need for clarity in the regulatory environment to better support artists and small business owners presenting small-scale cultural events and activities.

NAVA is the peak body protecting and promoting the professional interests of the Australian visual and media arts, craft and design sector. NAVA undertakes advocacy on behalf of the sector and sets and monitors adherence to best practice standards. Since its establishment in 1983, NAVA has been influential in bringing about policy and legislative change to encourage the growth and development of the visual arts sector and to increase professionalism within the industry. NAVA also provides direct service to its members and the sector generally by offering industry advice, referrals, resources, professional representation and development, grant programs, education training courses and events, and a range of other opportunity brokerage and career development services.

As identified in the discussion paper, the current lack of consistent guidance and categorisation for small-scale temporary creative use of existing spaces under the BCA and local planning controls means that small, low impact arts and cultural events are given impractical compliance parameters designed for broader classifications of entertainment. This is confusing for artists, arts professionals, small business owners and neighbouring residents, as well as it is for town planners, compliance consultants and regulatory authorities. Expert advice for compliance is costly and time-consuming, and often artists, arts professionals and small-business owners are given conflicting information about what is or isn't required - the result being a lost opportunity for the City where art spaces and events happen either 'under the radar' or not at all.

NAVA recognises the potential danger of non-compliant creative spaces and commends the City for proposing a practical approach to allow minimal impact small-scale cultural uses

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Patrons: Pat Corrigan AM, Mrs Janet Homes à Court AC, Professor David Throsby AO. ACN 003 229 285 / ABN 16 003 229 285

without development consent by meeting a set of key criteria outlined under Action 3 of the discussion paper. NAVA's response to these criteria is as follows:

- Occur only in a building with current development consent for a shop, office, industrial building or warehouse and an annual fire safety statement for that use.

NAVA is not opposed to this proposed criteria that will allow small-scale cultural uses to occur in a building with current development consent for a shop, office, industrial building or warehouse.

The need for fire-safety awareness is becoming increasingly apparent world-wide and appropriate fire-safety measures are as essential to arts and cultural use as they are to any other commercial or domestic building use. However, NAVA notes that from October 2017, the NSW Government has enacted reforms to strengthen fire safety certification for both new and existing buildings. NAVA is concerned that in some cases, the amending regulation will add further prohibitive costs to artists, arts spaces and small-business in existing buildings, which may mean they are unable to comply or meet the new provisions for annual fire safety statements. NAVA recommends that resources be considered to offer acute advice and financial assistance to assist small-scale arts and cultural uses comply with state fire safety regulation.

- Accommodate a maximum of 1 person per square metre including patrons, staff and performers.

NAVA agrees this is a reasonable allowance to guide capacity.

- Have a limit of no more than 50 people.

NAVA recommends the limit be extended to 100 people based on provisions outlined in the above criteria that will allow small-scale cultural uses without development consent in a shop, office, industrial building or warehouse (the last two could potentially be quite large) with current development consent for a shop, office, industrial building or warehouse and an annual fire safety statement for that use. It can be assumed that amenities for 'that use' would be appropriate for most cases that this proposal aims to cater for: an art exhibition, artist talk, lecture, panel discussion, etc.

In addition to fire-safety compliance for existing or current development consent, general safety provisions will be further met by the above criteria that accommodates a maximum allowance of 1 person per square metre, and the below criteria for compliance with responsible service of alcohol.

- Occur up to 26 days a year and on no more than 8 days a month and two days in a row.

NAVA agrees this is reasonable.

- Last for a maximum of four hours on any day (not including event set up and pack down).

NAVA agrees this is reasonable.

- Finish no later than 9pm Sunday to Thursday and 10pm Friday and Saturdays.

NAVA agrees this is a reasonable allowance.

- Not be in a residential area.

NAVA does not agree with this criteria as it is superseded by the first criteria of Action 3 that minimal impact small-scale cultural uses without development consent occur only in a building with current development consent for a shop, office, industrial building or warehouse.

B4 Mixed Use Zones include business, retail and residential areas and may be located adjacent to R1 and R2 zones; suitable buildings in this zone should not be excluded.

- When alcohol is served, it must either be:
 - consistent with an existing licence, or
 - served by a caterer using an off-premises authorisation

NAVA recommends that this condition be clarified to include the use of limited liquor licenses. Single and multiple limited licences are currently available for non-profit organisations, including community groups and artist run initiatives, from the NSW Office of Liquor, Racing and Gaming within 28 days.

NAVA also notes that OLGA set provisions for security minimums at 100 people.

- Have amplified music only in Central Sydney and zones that don't allow residential uses.

NAVA agrees this is reasonable.

- Not use pyrotechnics, theatrical smoke or other dangerous materials or implements.

NAVA agrees this is reasonable.

- Maintain existing conditions of development consent relating to parking, waste and the like.

NAVA agrees this is reasonable.

Conclusion

NAVA again commends the City of Sydney for its work on the 'Open and Creative City Discussion Paper - October 2017'. Specifically, for identifying the urgent need for clarity in the regulatory environment to better support artists and small business owners presenting small-scale cultural events and activities. NAVA supports the proposal to address some of the regulatory barriers for existing business hosting temporary cultural activity; creative entrepreneurs wishing to utilise existing buildings; and new cultural and community spaces seeking approval for an ongoing activity that has minimal impact and is small in scale. With provision for fire-safety support for artists, arts spaces and creative or cultural small-businesses uses to comply; extension of capacity to 100 if complying with other criteria as outlined; and clarification on mixed use zoning and limited liquor licenses, we support the key criteria proposed.

Yours sincerely,

A handwritten signature in grey ink, appearing to read 'Penelope Benton', written in a cursive style.

Penelope Benton
General Manager