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Music Festivals (Music Festivals Panel) Order 2024

I, The Hon. John Graham MLC, Minister for Music and the Night-Time Economy (being the Minister responsible for the administration of the *Music Festivals Act 2019* (the Act)), **DO HEREBY APPROVE**, pursuant to section 19D of the Act, the Music Festivals (Music Festivals Panel) Order, effective from the date published in the New South Wales Government Gazette.

Signed, the 14th day of December 2024

A handwritten signature in black ink, appearing to read 'John Graham', with a long horizontal flourish extending to the right.

The Hon. John Graham MLC
Minister for Music and the Night-time Economy

1. Name of Order

This order is the Music Festivals (Music Festivals Panel) Order 2024

2. Commencement

This order commences on the day it is published in the Gazette.

3. Definitions

In this Order – **the Act** means the *Music Festivals Act 2019* and **the Panel** means the Music Festivals Panel as defined in the Act. A **Music Festival** is an advertised event that calls itself a music festival, consists of at least five performances, is marketed under a single banner with a collective running time of at least five hours, and can be single or consecutive multiple days.

Notes included in this Order do not form part of this Order.

4. Eligibility and assessment criteria

To have an appeal upheld, the Music Festivals Panel must be satisfied that the organiser has demonstrated they meet each of the below strict set of eligibility and assessment criteria.

Eligibility criteria

- a) The festival is a paid and ticketed event presented in NSW and has occurred in NSW at least twice over the last 10 years
- b) The festival programs new and original contemporary music, and the music is the primary and advertised focus of the festival
- c) The festival is Australian owned or part Australian-owned
- d) The festival can demonstrate/legally declare solvency, before user pays charges are applied
- e) The festival can demonstrate the event would provide tourism for NSW, including intrastate and interstate visitors and visitor nights.
- f) The festival can demonstrate the event would be forced to be cancelled or significantly downsized without partial or full exemption from user pays charges
- g) The festival can demonstrate that there are short term, unavoidable issues that have driven the need for financial relief.
- h) The festival can demonstrate how the fee relief will be spent by the organiser to address the short term, unavoidable issues.
- i) The festival can demonstrate good compliance history under music festivals and liquor legislation.
- j) The festival does not have NSW Government Hallmark status

Assessment criteria

- a) That exceptional circumstances exist
- b) That payment would threaten the viability of the music festival.

Whilst not a pre-requisite, if a festival organiser can demonstrate they have applied for internal review of the charges, that would be considered favourably in the assessment.

The terms and definitions outlined in this section (**Eligibility and Assessment Criteria**) are not further defined within this Order. The interpretation and determination of the terms and definitions in this section, and whether the

criteria has been demonstrated by the applicant, is the responsibility of the Panel, following the decision-making process outlined in section 8 (**Panel Decision**).

5. Timeline

Although organisers are encouraged to submit an application well in advance of the event, applications to the Music Festivals Panel must be submitted:

- At least 6 weeks prior to the event

The Panel must determine the application outcome:

- At least 2 weeks prior to the event

6. Application Requirements

The festival organiser is required to submit the following information to be assessed by the Panel:

- How the music festival meets the eligibility criteria
- How the music festival meets the assessment criteria
- The user pays charges invoices they have received
- A finance plan of the proposed event, covering event organisation and administration costs, event management fees and income streams including sponsorships (cash and/or in kind), ticket sales and any broadcast or rights fees
- Financial statements from previous festivals
- Any user pays government charges the event has been levied in previous years

7. Agency Consultation

The Panel may consult the relevant agency which is imposing the charges and request further information regarding the applicant's event, including:

- Any other relevant budgetary information which the agency deems relevant
- Any other information the Panel deems necessary to make its decision

8. Panel Decision

After considering the application against the eligibility and assessment criteria set out in section 4, the Panel must decide whether to accept or refuse the appeal to reduce or waive the user pays government charges. Decisions of the Panel must be unanimous.

The panel is not limited in the matters it may consider when determining whether the assessment criteria in section 4 is met.

Panel decisions will only apply to the individual event in question and do not apply to future events planned or held.

As soon as practicable after the Panel makes their decision, the Secretary of the Department of Creative Industries, Tourism, Hospitality and Sport must give written notice of the decision to the music festival organiser and the head of the agency to whom the fee is or would have been payable.