



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**STANDING COMMITTEE ON PLANNING, PUBLIC WORKS  
AND TERRITORY AND MUNICIPAL SERVICES**

**(Reference: Live community events)**

**Members:**

**MS M PORTER (The Chair)  
MS C LE COUTEUR (The Deputy Chair)  
MR A COE**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**TUESDAY, 27 OCTOBER 2009**

**Secretary to the committee:  
Ms N Derigo (Ph: 6205 0435)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Committee Office of the Legislative Assembly (Ph: 6205 0127).

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## **Privilege statement**

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*Amended 21 January 2009*

**The committee met at 2.05 pm.**

**ORMSTON, MR DEAN**, Director, Corporate Services, Australasian Performing Right Association

**THE CHAIR:** Good afternoon everybody. Welcome to this public hearing of the Standing Committee on Planning, Public Works and Territory and Municipal Services inquiry into live music events. Could you read the privilege card that is on the table in front of you? Do you understand the implications of that?

**Mr Ormston:** Yes.

**THE CHAIR:** Are you happy with that?

**Mr Ormston:** Yes, thank you.

**THE CHAIR:** Before we proceed to questions, would you like to make some opening remarks?

**Mr Ormston:** Certainly. I am appearing on behalf of our stakeholder groups, which are both composer and songwriter members of APRA and also licensees who present live music. APRA has licences in place with venues around Australia. That is the purpose of our submission and for appearing here today.

By way of a couple of opening remarks, it was nice to come running across Garema Place and see Groovin' in Garema, a live music performance of ANU students. I thought it was great to be on the way here and actually see a live music performance, albeit briefly.

It is probably worth noting the breadth of APRA's operation and the relevance in submitting here. APRA is a non-profit organisation that administers copyright on behalf of its composer and songwriter members. There are 55,000 members here in Australia and New Zealand and we have affiliate relationships with similar organisations all around the world which effectively allow us to administer the copyright of songwriters and composers both at the national and at the international level.

Our members range from people who might be guitarists, solo guitarists who write music at home and the only expression of their music is performing solo in a venue, through to people who write music for film and television, and dance music producers who write music which is ultimately performed in nightclubs. So there is no limitation on the breadth of our membership or the genre, and the only prerequisite for becoming an APRA member is that your music is being publicly performed somewhere.

APRA's mandate, of course, in administering copyright on behalf of its members, is to return a payment to our members for the public performance or communication of their work. The licensees are the people who use music and with whom we put a licence in place. As I mentioned, 71,000 businesses around Australia hold a licence with APRA. That is everything from a hairdresser that might have background music playing through to a hotel that might have live music as well as background music,

nightclubs, fitness centres, radio stations and television stations. Again, there is incredible breadth in terms of the businesses that we are talking about there.

In a sense, the benefit that APRA provides is being the conduit between the artist and the venue and really making it administratively simple for both parties—so a venue being able to obtain a blanket licence from APRA for all works that they may wish to have played in their venue and artists not having to administer their own copyright.

In relation to live music, we have noticed over the last 10 years that live music in venues has somewhat stagnated. It has been for a variety of reasons and there has been a variety of reports nationally that will attest in detail to the reasons for that. A report in New South Wales several years ago called *The vanishing act* by Shane Homan referred to the disappearance of live music being very complicated, and that it was not as simplistic as having poker machines in hotels, which many people looked to point the finger at. The entertainment spend by consumers is now spread further. People have much greater choices.

Certainly, one of the issues that came to the fore was regulation and the fact that it was more difficult from a compliance point of view for venues to be able to present live music. It was probably through that period that APRA became aware of the regulatory issues that venues faced in presenting live music. We became involved initially as a third party observer to the point of becoming involved more formally through a submission process.

The first example I had was in South Australia when the issue of first occupancy legislation was being debated there. There were a number of venues which were very directly impacted by the development of inner city apartments. In those cases the venues had been longstanding live music venues. They were considered to be culturally significant to the city. Interestingly, from a promotional point of view, the city relied on these venues as providing part of what made Adelaide a fabulous place to visit. These venues came under pressure and went to considerable expense in fighting their particular argument that it was not fair on them to have to curtail live performance and to change their business model completely because people had chosen to live next door to a live music venue.

We know of a couple of examples where considerable money was spent and the ultimate outcome was a negotiation between the developer of an apartment block and a hotel relating to noise attenuation. But in that time a number of venues have spent so much money that their business almost became non-viable through that process. Happily, in South Australia now, there is consideration of first occupancy. Our most recent review in Adelaide is that there is a vibrancy to the live music scene and there has been some sort of relief, if you like, regarding the issues that were being faced there a few years ago.

A similar example is in Queensland, in Fortitude Valley, where there were discussions about the concept of an entertainment precinct. I think that the issues being fought there were debated in a much more cordial fashion where the council, together with the various relevant departments, debated the issues being confronted by everybody in terms of trying to run businesses in what is clearly an entertainment precinct, Fortitude Valley, and also people wanting to move back into the city and into

inner-style apartment living.

Most recently, in Victoria, we have become involved in a very heated debate where existing regulation relating to the requirement for security where live music is being presented is now being enforced. The regulation had existed for some time but there is now proactive enforcement that means where a venue has live music they are considered to be a high-risk venue, irrespective of the nature of the music performance and irrespective of the venue. So there is no quality measure on whether you are talking about a large-scale hotel or a small wine bar that has a guitarist in the corner. There is no assessment of the actual risk and the actual requirement for security. We are at a very initial point in understanding the regulation ourselves and what might be able to be done. We will very soon be talking to the Australian Hotels Association about what we might be able to do to bring some reason to the situation there.

What I can pass on in terms of the real impact of that is that, within the last month, our members have contacted us to give real examples of where people have lost their weekly residency performing in a hotel because the hotel is now faced with having to pay for additional security. My point is that the enforcement of such regulation without consideration of the context has an immediate economic impact on venues which will translate very quickly into people making decisions about whether or not to present music.

As a positive story which is nice to talk about, last week the New South Wales government made an announcement that the POPE licensing system in New South Wales, which is the place of public entertainment licence, is formally being removed, and that was removed with effect from Monday this week, 26 October. For venues, that means they now do not have to go through a completely separate licensing process with the Department of Planning in order to have live music.

Previous to this change, if a venue, irrespective of the nature of the venue, wanted to present any form of live music, whether it was a guitarist or a band, they had to have consent through a licence from the Department of Planning. That might have resulted in considerable expenditure through a licensing process and, of course, it takes time. Ultimately, the decision that was made by a lot of venues in New South Wales was, "It's too hard, we're not going to go down this track if this is what we need to comply with." I can provide copies of this to the committee. There were very public statements in New South Wales last week about bringing live music back into all sorts of venues in New South Wales, with the point being that any venue can be a live music venue.

Part of the push that APRA is keen on discussing with venues is that live music does not necessarily mean a five-piece rock band. That can cause noise issues. We are trying to educate hoteliers, bars, cafes and restaurants that Tuesday night with a guitarist creates a point of difference between your business and the businesses around you. You are presenting live music, you are doing something that adds breadth to your business, and you are probably not going to get a noise issue as a result.

The problem is that if you do not have regulation that similarly discerns between the level of music performance and the likelihood of any noise risk, you are going to run

into problems. Our point is that regulation needs to be enforced in a considered way, where that regulation exists. There is a lot of excitement in New South Wales in terms of the potential, now that the POPE licence has been removed. A number of venues have called us to say, “The POPE’s dead,” so to speak, “We’d like to investigate our opportunities with live music.”

I present that as a snapshot showing that this issue is manifesting itself in a number of different forms in each state around Australia. We have been working with the federal government on the regulatory barriers that venues face around the country. There was a study done that was funded by the Music Council of Australia that looked at the regulatory issues. My understanding is that the federal government is now working on what might be considered a best practice guide to regulation, and we would welcome that as a good thing.

Probably the final point to make is that something that seems to be left out of all of these discussions is the economics of live music in venues. To that end APRA is talking to a number of stakeholders at this point in trying to get some research done that looks at the value of live music in the venue context. That involves not just the remuneration to performing artists but the wider economic value. On a night when live musicians perform, what else does the venue spend money on? They have probably got extra bar staff, there is production value, there might be lighting and there might be security. That value extends right back to the businesses that are hiring that equipment in or selling that equipment. There has been no study as to the economic value of that. APRA is able to provide figures on the pure economics of the value of the artists performing, but we believe that this wider study would assist governments at a state level in reviewing regulation and how it might impact economically on what is happening in venues.

Also, the venues themselves need to understand the potential of live music in their business in order to make an informed decision about whether live music works for them. We are hoping that research might get going in the next couple of months. We are talking to the Australia Council and Minister Garrett’s department about the potential for that.

In the ACT, APRA on our database has 48 venues licensed—that means an APRA licence in place—for live music. Our estimation is that those 48 businesses spend about \$2 million a year on live music. So that is money going directly to artists. It has no consideration for the wider economic value. As you can see, it is not an insignificant sum of money and, per venue, it is a substantial amount of money that people are spending on live music. Our position would be that any business that chooses to invest in live music in that capacity needs to have some sort of protection from regulation being imposed in a way that is not considered.

**THE CHAIR:** Thank you very much. Could you explain the different approaches? New South Wales obviously seem to have come full circle now and have gone back to a more conducive environment through the removal of the POPE. However, you were talking about the way that Queensland have handled it. You described it as being done in a cordial manner. You then said that Victoria have come in with legislation which appears to be catch-all legislation and which seems to be a virtual “hammer to crack the small nut” type of thing. I presume that, when you are talking about security, you

are talking about large crowds being at a venue and causing security hassles. Is that the type of threat that you are talking about? I was not quite sure what the threat was in terms of security. Perhaps you could clarify that first before we go on to the next question.

**Mr Ormston:** My understanding—and I should flag that I am not a regulatory expert in respect of each of the state regulations—is that in Victoria, where live music is being presented by a venue, it automatically considers them as a high-risk venue and as a result they need to provide security for the nights when they have live music being performed. There is a formula as to how much security they need to provide, based on the number of people who would be in the venue on a particular night. The difficulty, it seems, is that, even in a small venue that might have had live music being performed for years and years, and where there has never been a security issue, those venues now also need to provide security in the form of staff on the door to monitor patrons coming and going.

**THE CHAIR:** So it appears to be the size—the increased capacity for the venue to invite people in or attract people that they previously might not have attracted?

**Mr Ormston:** Yes. The question in our mind is: why is it perceived that the performance of live music equates to potential trouble with a crowd? There is no such requirement if all you have in your venue is a plasma screen showing the football on a Friday night. So there is inconsistency in the view of what entertainment is and how you need to treat the crowd. Our question is: why is a crowd listening to a solo guitarist likely to be more rowdy than a crowd watching the football on a Friday night?

**THE CHAIR:** With the two different approaches you have described, obviously one was, as you said, a cordial approach and one seemed to be fairly heavy handed. It is fairly obvious that there is a difference but could you describe the more subtle ways in which those two governments have dealt with this?

**Mr Ormston:** In Queensland, in relation to Fortitude Valley, from the outset there was an interest in getting all the players to sit around the table and discuss what was clearly a problem. So there was liquor licensing representation, the department of planning, the city council and various stakeholder groups from the performing arts side—APRA, for instance—and also there was a move to get the developers of the building projects in this case to the table as well. Although it was still a long-winded process to come to a solution, in that context everybody recognised there was a problem. People did not want to remove live music per se because they recognised that was part of the reason people came to Fortitude Valley. But there was also a recognition that people were going to move into the city and of how to deal with those competing interests.

Part of what came out of that—and I do not have the details with me today—related to how you administer and deal with a complaint. Should it be that one complaint from one neighbour is enough to stop live music in a particular venue? The outcome of that was, no, it was not. Consideration needs to be given to what the complaint is and what the context is. The more subtle platform there was that there was a realisation that you needed to bring together all the parties to talk about this and there would have to be

some give and take, probably, on both sides.

In New South Wales, the interesting part is that the real issue came from the fact that there were two government departments that did not really talk to each other. So the Department of Planning was very distinct from the department of gaming and racing, which was administering liquor licensing, and they were very much administering their own portfolios without a realisation of how the combination of the two impacted on venues presenting live music.

Much of the discussion in New South Wales related to the fact that having a guitarist in a restaurant does not change the intent of the business; it is still a restaurant. From a planning point of view, you do not need to ask that business to apply for a new planning permit in order to have live music. That change really occurred because of a particular citizen, a gentleman by the name of John Wardle, who single handedly lobbied those departments and finally brought them together to sit down at the table and realise that the redrafting of any regulation within the Department of Planning was going to have an immediate impact on what was happening in venues in relation to live music. I guess the subtle thing in all of that is getting the players to the table and realising the impact of one on the other.

**THE CHAIR:** And in Victoria it just did not happen at all?

**Mr Ormston:** In Victoria, my understanding is that the regulation has existed for some time and venues were not necessarily aware when this regulation came in, and now it is the enforcement of that regulation that is causing a problem. At this point in time there are a number of groups in Victoria starting to lobby, but there is a feeling of animosity, unfortunately. The dialogue is happening after the event rather than—

**THE CHAIR:** Right, rather than before it. It would be interesting to know why someone has suddenly found it and decided to use it.

**Mr Ormston:** My understanding is it is as a result of a complaint, so there has been a particular—

**THE CHAIR:** Right, there has been a complaint by somebody.

**Mr Ormston:** Yes, and unfortunately that is how this seems to be triggered in each state—somebody has made a complaint about what they consider to be noise in a venue, and that is where the issue suddenly springs from.

**MS LE COUTEUR:** With respect to Queensland, everyone talks about Fortitude Valley. Is that just because it is the most famous or is it because it is the only place that they have the order of occupancy legislation? Not being a Queenslanders, I do not know.

**Mr Ormston:** You are quite right: I think the interest in Fortitude Valley probably came about because of the process. Quite a detailed assessment of the area was done in what I think is called the harmony valley plan, which is available, and we can provide you with that plan. So there was a high level of documentation in relation to what was occurring in that precinct, and the questions related to whether or not it

should be considered an entertainment precinct and whether there should be specific regulation relating to an entertainment precinct. If you go down that track, do you then go through a process of identifying other areas that are entertainment precincts? There are differing views on whether tailoring regulation to suit entertainment precincts is the right model, because maybe that does not allow for new areas to develop easily.

**MS LE COUTEUR:** So in Queensland it is precinct by precinct, the order of occupancy? You do not have a general right throughout Queensland?

**Mr Ormston:** I could not answer that, to be honest. I am not sure whether the first occupancy only relates to the area or whether it is more generally applied to the state.

**THE CHAIR:** If we could get that harmony document, that would be helpful.

**MR COE:** Do you know how the state government departments interact with the councils on this issue in Queensland? I imagine there must be a lot of overlap, especially in planning, but also perhaps in terms of the enforcement of some of the different regulations. Do you know about that?

**Mr Ormston:** I do not know, now that they have finished the process and it is all in play, what the current interaction is. But that is encapsulated in this document and there is information available through the Brisbane City Council on the Fortitude Valley plan. I am more than happy to provide that information. It is probably beyond my sort of expertise to comment.

**MR COE:** Yes, sure.

**MS LE COUTEUR:** We have been talking about live music, but you obviously know about “unlive” music as well—recorded music. Is that regulated in the same way as live music? In my restaurant or venue, I could have my guitarist there in person or I could have my CD player on and possibly be twice as loud. In general, are there regulations for music or for live music?

**Mr Ormston:** My understanding is that in Victoria this issue relates because it is live music. I think it is probably because when people talk about live music they do think about a five-piece rock band as opposed to what else it might be.

**MS LE COUTEUR:** You can have a canned rock band. They have done a few recordings of rock bands!

**Mr Ormston:** Yes, exactly. I think the legislation and much of the debate have been around the live music issue and how the regulation relates to live music, because the regulation does not allow for any variation. That seems to be the problem. It should not be one size fits all, because obviously there are large-scale live music venues that do need to look at noise attenuation. It will be a consideration, and that is different from a restaurant playing live music.

**MR COE:** Is that just the easy option—to clump it all together—

**Mr Ormston:** Yes.

**MR COE:** and treat it all as one?

**Mr Ormston:** Yes.

**MS LE COUTEUR:** As far as recorded music is concerned, it is basically just the noise level, and you have got noise regulations and that is the only thing?

**Mr Ormston:** Correct. I think that varies from state to state in terms of how it is administered. In terms of the liquor licence that a venue might hold and how late it can be open, if it is in New South Wales and it is considered to be a nightclub venue and their liquor licence allows them to operate to 2 am or 5 am, that would be one consideration. There would be external decibel readings that they would need to be compliant with as well. The decibel reading was a factor in the discussions in Queensland, in the Fortitude Valley precinct as well, in terms of how much can be heard outside the venue at a particular time and how that compares to a truck driving past, for instance.

**MR COE:** Earlier, you said that 48 venues are registered in Canberra for live music and that they have spent about \$2 million. Do you happen to know whether one or two venues, like the convention centre, are paying \$1.5 million or \$1.8 million of that \$2 million and you have got a couple of hundred thousand spread amongst the other 45 or thereabouts? It is about the distribution, I guess.

**Mr Ormston:** You are quite right. The casino, I would presume, would be a considerable spend in that figure. I could come back to you with that information as to what is the spend of the casino and, as a result, what is the average spend across the venues. The only figure I have here at the moment is the average spend across hotels versus clubs versus restaurants. What I can say to you is that the average spend on live music in the ACT by, for instance, restaurants and cafes is about \$28,000 a year. So the casino spend would have no impact on that figure. With respect to the other two figures I have, the spend on live music in hotels, bars and nightclubs as a group is about \$40,000 a year. Again, that will not be impacted by the casino spend.

It is worth knowing that these figures are 2008 figures, so they are slightly dated. We are just putting a new system in place that will allow us to provide more up-to-date figures. The average spend in restaurants and cafes on live music in the ACT is higher than in most of the other states. It is interesting; there are a number of venues here that present a degree of live music. We see that as a healthy sign and a thing to be encouraged.

We have had a number of conversations; we have good relationships with the Hotels Association, the Clubs Association and the restaurant and catering association. Especially in the restaurant and cafe market, we have suggested to that association that live music is something that provides businesses with a great deal of potential to differentiate themselves from each other and create ambience and mood. Especially given the changes in the legislation in New South Wales, we will be working with the restaurant sector on helping them to understand how live music might work for their venues.

**MS LE COUTEUR:** You also administer the recorded music royalties as well?

**Mr Ormston:** Yes.

**MS LE COUTEUR:** In the ACT and in general is a lot more spent on live than recorded?

**Mr Ormston:** No. There are different types of recorded music. There is background music, which is what you would hear in a hairdressing salon, for instance, or a retail shop. But there is also obviously recorded music used in a nightclub. So we would differentiate between the two, saying one is background and one is featured recorded music. The value of featured recorded music is typically higher, nationally, than live music at the moment, and that is for a range of reasons. For instance, with nightclubs without music, you do not have a business, so you need music and it is of a higher value. When I say “value”, I am talking about the licence fee paid to APRA as the value, whereas the fee that a venue pays to APRA in relation to live music is less. So there is a differentiation between the two. But there is not, again, a study that says what is the total contribution, for instance, of recorded music in businesses across Australia. It is a gap in the data that exists.

**THE CHAIR:** Mostly you have talked about what happens around licensed premises. Do you have any feeling about what is happening at the level of unlicensed premises, such as community halls and groups that get together just to put on an event—a fund-raiser, for instance?

**Mr Ormston:** We have statistics and information on those performances because each of those events similarly requires an APRA licence. It is interesting that we do not hear the same level of complaint, if you like, from people putting on those events in terms of the regulatory barriers that they might be facing. I am not sure whether there is an issue there, to be honest. I guess it is partly because they are one-off events. People realise there is probably a range of regulation they need to be compliant with for that one-off event and they go through the process of doing that. Much of the discussion and debate that we have been party to has been about venues where people are trying to present live music as part of what they do during the year. We can provide to the committee, if that would be useful, similar statistics on the number of music-based events that occur in the ACT and the value of that.

**THE CHAIR:** That would be good.

**MS LE COUTEUR:** Why does a one-off live event necessarily have to have a licence from APRA?

**Mr Ormston:** APRA administers the public performance copyright in a particular musical work.

**MS LE COUTEUR:** So if I performed it, if I composed it, I would not have to talk to you, would I?

**Mr Ormston:** Yes. Obviously this is a discussion that comes up with hoteliers all the

time. They say, “I’ve engaged a band to play and they’re an originals band, so they are only going to play their own music. I’m paying them an amount of money to perform here. Why do I have to pay an APRA licence fee?” That is because the copyright relates to the performance of that particular work as opposed to who is performing it. The hotel is paying you to be there on the night as a performer, but you are going to earn a royalty through APRA in relation to the copyright in your work. We do not draw a distinction, if you like, between the fact that you performed it or somebody else performed your song.

The fact is there was a performance of that song. That is where the recognition through a royalty payment is made. As you would imagine, it is an important revenue stream for original artists, that they are they receiving a payment for performing live from the venue. It is difficult to make sure that artists get paid a rack rate for their performance—sometimes they do not—whereas receiving a royalty for the performance of that work is more likely a guarantee that they will get some form of payment coming back to them.

**THE CHAIR:** Do you have any more questions?

**MR COE:** Regarding the study you had about the economical value of live events, do you know whether something similar has been done overseas?

**Mr Ormston:** Not that I can put my finger on at this point in time. There is a big gap in the statistics relating to professions and careers in music in general in Australia in terms of distinguishing between people who are essentially hobbyists right through to professional musicians. I am not aware of any particular study, but that is the process we are also investigating at the moment—what exists out there that we can look to base our study on? We have spent most of the last few weeks talking to the hotel sector, restaurants and clubs to find out whether or not that information is useful to them. We are pleased to know that they are also interested in that information. Now that we have got a feeling for all of the interested parties, we can pursue it.

**MS LE COUTEUR:** Do you have any views as to the optimum regulation of live music? You obviously know all the states in Australia. If you were regulating live music in the ACT, what would you think we should be doing?

**Mr Ormston:** I hope there will be some guidance in that from the document that is being put together at the federal level at the moment, which is providing a best practice guide. The study that APRA was involved in was more of a summation of all the regulation around the country. I am not sure whether this view would be the view of all parties, but I think the regulation that currently exists in New South Wales is more favourable to the presentation of live music than what exists in some of the other states.

There have been a number of changes in New South Wales that have assisted with that. The removal of the POPE licence was the most important change and the most recent. But there are a number of other regulatory aspects that are important. For instance, it is now possible in New South Wales for minors to perform in venues as long as they are accompanied by an adult. That was a change in the regulation. It is very relevant to a lot of young and up-and-coming artists.

**MS LE COUTEUR:** Absolutely.

**Mr Ormston:** That was something that might have been considered a minor change that came through a year ago. There was a lot of positive feedback from artists. Again, we can provide to the committee a matrix for you that summarises which states have what form of regulation. Until this best practice guide comes out at a federal level, it will give you a sense of what exists in some states versus others and provide that quick snapshot you are looking for.

**MS LE COUTEUR:** That would be great.

**THE CHAIR:** Do you think this is an emerging issue in Australia or has been problematic in Australia? Not so long ago people did not live in the cities much, as opposed to, say, the European style and the Asian style of living where people live in the cities and automatically expect, I would think, to live next to noise. Am I right or am I making some assumptions here that are incorrect?

**Mr Ormston:** No, I think you are correct. I think it is the changing pattern in lifestyles and the way people live in cities now that has probably caused some of this problem. People are moving into the cities so they are closer to live music venues that have existed for a long period of time. I also think that there has been a bias towards the weight of regulation. If somebody makes a complaint about noise, it is not considered in a context that we have not valued, economically or culturally, the value of what is going on in terms of live music. Really, the regulation has taken the perspective of the person complaining about the noise issue without looking at whether it is a one-off situation or whether it is a fair complaint in the first place.

In Ireland, live music is part and parcel of the hospitality sector across the country. You cannot go into a pub—and largely restaurants as well—without being exposed to live music. It is accepted culturally as part and parcel of what goes on and there are not the same regulatory barriers. Damien Leith is a well-known artist, an Australian Idol winner, but probably more important from the APPRA perspective is that he is an Irishman who spent much of his formative years playing in pubs. He was part of the media release last week in New South Wales relating to the removal of the POPE licence. He spoke very passionately and said that, without the opportunity of performing in pubs like he did as a kid in Ireland, he would not be the musician he is today. The risk we run in overregulating and creating such barriers for venues is that we do not create an environment where musicians have the opportunity to learn their trade. Effectively, we reduce our own industry and any potential for a music export market that we might have.

**THE CHAIR:** So we have a different cultural expectation in Australia perhaps than in Europe and Asia?

**Mr Ormston:** Yes.

**THE CHAIR:** To what extent do you think the venues in the ACT that you have come across with this economic modelling that you have been doing rely on having live music? Do you think that it is extremely important to them to have live music or

are they just becoming more familiar with that and assess that it might be economical for them to draw in more patronage?

**Mr Ormston:** I think it is an interesting question. Last year we did a quick survey, and I should say a very informal survey, which again we can provide to the committee, which asked venues across Australia—restaurants, clubs and hotels—why they put on live music. It is fair to say that for a lot of venues it is not about making any money out of the music at all. A lot of venues struggle to make money out of music. The overwhelming response from people was, “We love having live music. It’s important to our custom. We get repeat clientele from the fact that we have jazz on a Tuesday night and we have set that up as an ongoing thing.”

A number of smaller types of venues like regional clubs and hotels spoke about the importance in their community of providing something like live music, that culturally it was important. We had other comments from people that having a plasma screen television in a venue is not culture and that we need to invest in culture and we need to provide opportunities. The really comforting thing, if you like, from APRA’s perspective on whether or not people are making money out of live music is that they were quite passionate about its importance from a cultural and social point of view. That is why, I guess, we are keen to look at the economics of it, because it is the gap. People will speak passionately from a cultural, social point of view. People are not so confident about whether or not they are actually making money out of it. We would like to think you can do both.

At the moment we are in the midst of doing case studies on venues that do live music well and actually make money out of it. We have five case studies that we have done now that we can provide to the committee. We have chosen a variety of venues. There is a fantastic venue in the northern beaches area of New South Wales called Lizotte’s. It was a restaurant. It is now actually more famous as a live music venue than as a restaurant. The benefit in all of that is that we are hoping to show people you can make it work economically; you just need to understand the mechanism.

**THE CHAIR:** Unfortunately we will not have time, will we, to go to Lizotte’s?

**MS LE COUTEUR:** I think we could get an extension!

**MR COE:** In that situation does the music then turn into feature music as opposed to—

**THE CHAIR:** Turn into what?

**MR COE:** Does it actually turn into the feature of the business, the core business, as opposed to the restaurant?

**Mr Ormston:** That is a good point. I am not sure what the proprietor of that business would like to be the outcome, but certainly it is a very good restaurant. They published their own cookbook with their own recipes. As part of that they talked about the live acts that perform there. I think what has happened for them is they were very much a fabulous restaurant that started putting on live music. But they went to quite a bit of trouble to line up the type of performance with the type of person that

was eating at the establishment. If you are paying an amount of money for a beautiful meal you are more likely to enjoy fine entertainment as part of that as well. You are right: the music in that context is not a background guitarist; it is more a featured artist.

We would suggest that you want the spectrum of all of that. You want venues which have the university student guitarist playing in the background—so it is an opportunity for that young performer to get performance experience in a fairly low key environment—through to venues that will engage high quality, high level artists in a more intimate environment. Ideally, we should not have to go to a large stadium just to see high profile artists. We should be able to see high profile artists in a variety of venue types.

**THE CHAIR:** Do you have any more questions?

**MS LE COUTEUR:** In terms of promoting younger artists, who probably are not going to be in the licensed venues so much, do you have any ideas of how to promote the younger up-and-coming artists?

**Mr Ormston:** It is something we are very interested in. There are very few venues for young bands and artists to perform in. That is a huge issue nationally. We are talking to the Hotels Association at the national level about the extent to which they can help organise venues for young artists to perform. It may be on a Sunday afternoon. It is not necessarily an alcohol-based event, obviously. It is an under-age performance in a hotel on a Sunday afternoon that could develop into a regional battle of the bands type of idea. We are investigating whether that is a possibility in the Northern Territory in relation to Indigenous artists—finding performance spaces for Indigenous artists.

It is very important that young artists are kept in mind on this issue because it is the biggest problem that we have in Australia at the moment. When you talk to artists they will all say it is very difficult to find somewhere to go and play. Typically, hotels or registered clubs have been the space that people have looked to. It is part of the reason we are keen to bring the restaurant sector into the conversation because there are many restaurants that are capable of providing that sort of space.

**MS LE COUTEUR:** And what about amateurs in general—no longer young amateurs? You would have a lot of professionals among the members.

**Mr Ormston:** Amateur groups similarly need to be accommodated in this, and the Sunday afternoon performance space is the one that amateurs are most likely to want to know about. Part of the problem there, of course, is that it is the Sunday afternoon beer garden type of experience that works really well for amateur groups, jazz groups et cetera. Where there needs to be a consideration in relation to regulation, we see that as being one area where there is a potential clash. Venues are prepared to offer up their outdoor spaces to young artists or amateur artists to perform, then are suddenly confronted with a noise complaint that shuts it all down, and, of course, they ask themselves the question: why did I go to the trouble? It is something that needs to be encouraged and nurtured.

**MS LE COUTEUR:** We have been talking mainly about noise complaints but do you

have issues also with complaints about the patrons? Even if a licensed venue is nice and quiet, when the patrons leave they may not be nice and quiet. Do you have regulation issues there?

**Mr Ormston:** A lot of the conversation that we have heard in different states is that there seems to be an assumption that having live music in a venue will mean there will be a noisy crowd or a violent crowd leave at the end of the night. We have put the question back saying that there is no research that suggests that live music equals a rowdy, violent, noisy crowd. We, again, would put forward a plasma screen at the football as a more likely scenario where you are going to get that sort of situation occurring.

That is an issue that venues are able to take on board and that they deal with all the time. If they have got a late-night licence, it is part of their responsibility to make sure that, where they can, patrons leave in an orderly fashion and that there is a consideration for the impact on residents. Our issue is that there is not an automatic correlation between live music performances and that issue, and, even if there is in larger scale venues you should not apply the same rules to a small venue. So the restaurant should not be compared to the late-night bar. They are different scenarios.

**THE CHAIR:** So it is not necessarily about the level of noise. The regulation is not brought in to cope with the level of noise; it is brought in to cope with the perception that there might be a level of noise or nuisance?

**Mr Ormston:** I think it is a catch-all situation. If there is a late-night venue with a late-night event going on, the regulation is no doubt in place to protect the outside community from patrons leaving—to make sure they leave in a civil sort of way. The problem is that, if you then sort of say that music is actually the issue there and that is where we are going to enforce the regulation, that is perhaps an incorrect assumption, which is our point.

Again, coming back to the small wine bar that might only be able to hold 50 people anyway, it is unlikely that the soloist performing in there is going to wind the crowd up into such a state of frenzy that they leave at 11 pm and cause public nuisance. So saying, as they are in Victoria, that that means you need a level of security is going to an extreme in terms of regulation. The regulation has been drafted from a department of planning point of view, typically, it seems, in each state, without consideration for what the intent is and what is actually going on in the business.

**THE CHAIR:** Right. You said the first occupancy is working in Brisbane, in Fortitude Valley, just as that one example of the way it can work better?

**Mr Ormston:** Yes.

**THE CHAIR:** Because of the consultation or because it is that particular kind of legislation?

**Mr Ormston:** I think the first occupancy legislation works because, rather than an immediate reaction to a complaint about noise, the first occupancy legislation forces a conversation to be had: “This venue has been here for a long time doing this and how

many complaints has it had in that 20 years? This is a new development that has gone up next to it, so what are the issues there?" It forces a conversation to be had rather than really just acting on the fact that there has been a complaint about noise.

**THE CHAIR:** Yes, or a complaint about liquor being consumed inappropriately or something.

**Mr Ormston:** That is right. Again, obviously our experience does relate to the issue of noise rather than complaints about bad behaviour from liquor. We would just make the comment that there is not a researched parallel to suggest that live music ultimately ends up in bad behaviour from patrons.

**THE CHAIR:** Okay. That has been very interesting. There are no more questions, so thank you very much for coming down and getting lost and—

**Mr Ormston:** My apologies for arriving late.

**THE CHAIR:** That is all right. I am glad that you bumped into Groovin' in Garema.

**Mr Ormston:** Yes, so was I.

**THE CHAIR:** We have it through until some time in February next year at eight different places around the city during the week.

**Mr Ormston:** Fantastic. Embarrassingly, I should not have got lost because I studied here in Canberra at the School of Music many, many, many years ago—

**THE CHAIR:** It is a bit different. How long ago was that?

**Mr Ormston:** A hundred years. I do not know that there were a lot of live music venues back then.

**THE CHAIR:** If you could send us that information that you have mentioned, that would be really good. We do appreciate very much your coming and presenting to us, giving evidence. Thank you very much.

**Mr Ormston:** Thank you very much.

**THE CHAIR:** We will be sending you a copy of the transcript. If there is anything that appears to be wrong with it, please you let us know as soon as you can. If there are any other questions that arise from today or from the material you send, do you mind if we contact you to clarify anything?

**Mr Ormston:** Not at all; please do.

**Short adjournment.**

**HEFFERNAN, MRS MARIA**, President, Canberra Blues Society Inc  
**LAWRENCE, MR RUSSELL DAVID**, Ex-President, Canberra Blues Society Inc

**THE CHAIR:** I welcome Mrs Heffernan and Mr Lawrence to this public hearing of the Standing Committee on Planning, Public Works and Territory and Municipal Services inquiry into live music events. I draw your attention to the buff privilege card. Could you please acknowledge that you have read it and you are comfortable with it.

**Mr Lawrence:** Yes, I am comfortable with it.

**Mrs Heffernan:** I have also read it and am comfortable with it.

**THE CHAIR:** Would either or both of you like to make an opening statement? Then I will invite members to ask questions.

**Mrs Heffernan:** The Canberra Blues Society is an incorporated body and not-for-profit organisation. We have about 90 members whose ages range from six to about 86. We welcome this submission into live community events as we think they are quite lacking at the moment. I would like to hand over to Russ as the author of the document.

**Mr Lawrence:** As Maria said, I am the author of the document. At the time, I was president of the Canberra Blues Society, up until the last AGM. The document itself, the issues surrounding the inquiry and the terms of reference were discussed by the last committee of the Canberra Blues Society and those discussions and the opinions that we agreed we wanted to express I then incorporated into the submission which the committee now has.

In the main, the availability of venues is based on our experiences in that as a community group we needed to gather somewhere to conduct our activities and the hardest part was to find a suitable venue that could accommodate us. We were competing with a lot of other organisations and we found in the main that community facilities were lacking and we had to go to commercial facilities.

Because of the type of activity we are involved in, live music, obviously pubs and clubs were the areas where we were focusing. But, even on that basis, not all clubs and hotels want to be involved with a community group. They might have live music but then involving community organisations is another issue altogether and we found a lot of venues were not interested at all, so it was very difficult for us.

When we lost a venue, it was like losing a family member because then there was a mad scramble to try and find what else was available in the area in a reasonably short period of time to replace what you had just lost. We had the same sort of problems: it was a case of sending everybody out on a fossicking expedition to see what was out in their area that met these criteria so that we could find a new home for the organisation.

We have been lucky enough to find a very good home at the moment. They are very supportive of us. They do not conduct any other live music events except for the events that we conduct, which happen to fill a void in their activities. Also, given that they are a commercial operation, they see it is a very profitable relationship between

us and their venue. We conduct our activities on a Sunday afternoon, which is normally very quiet for their business. But, if we happen to bring in somewhere between 120 and 160 people on a Sunday afternoon when they have 10 every other Sunday, they are very happy to see us. The quid pro quo there is that they make a substantial donation to us at the end of the year based on the revenue turnovers for the dates that we conduct our activities, so it is a nice relationship.

If we did not have that, we would find it near impossible because there are not sufficient community facilities out there that could meet our requirements, particularly for conducting family events, and that could provide a range of activities so that we could stage the music and feed and water the people in a nice, friendly and inclusive environment. That is where we were coming from as a society when we said that we could see that there was definitely a void that needed to be filled and that the government obviously would be the organisation that could fill that void.

The other area that has impacted on the availability of facilities is this order of occupancy, which we see as very important. In the submission, I mentioned the Old Canberra Inn, the National Press Club and the Corroboree Park Community Hall in that noise restrictions are making it very difficult there on the basis that we are impacting on other people's right to peace and quiet and harmony. But those residents arrived after the facilities had been built and there had not at the time appeared to be any sort of building restrictions in relation to their distance from that existing venue, or a building code that mandated a certain sound attenuation—double glazing or something that would mean that both entities could coexist in harmony.

That seems to be the problem now: all these noise restrictions are being imposed on the live music venues and they are saying, "Well, if I have got EPA people coming to me and they are monitoring on the basis of one or two complaints and it is impacting on my ability to make a living, maybe I should not be doing what I am doing," particularly if they are commercial ventures, not Corroboree.

The Press Club are in an area which has been rezoned and now it is partially residential. At 10.30 at night you are not allowed on the balcony outside because the noise carries to the residences across the road. They are imposing their own restrictions as well to make sure that they can live in harmony with the residential buildings around them, because they are getting complaints. They are self-regulating at the moment. They only do live music on a Thursday night and a Friday, I think, and it is normally 10 o'clock on a Thursday and probably earlier than that on a Friday night. There are people still hanging around, but they are shutting the club by 11 o'clock, virtually to get everybody out and to eliminate that noise, because of the problems they have been having with complaints.

Those are the two major areas in the submission where we see there is a problem and a real need for the building codes to be looked at for future residential rezoning in areas where there is currently a live music venue that the community are heavily using and rely on to conduct their activities. I do not know where we could conduct our activities if we did not have some sort of a facility where we could bring everybody together. As I said, social inclusion is very important. Probably Maria can talk a little bit more about that in respect of the groups that we are acting with.

We give school groups an opportunity to experience what it is like to play live music in front of an audience. Once they leave school, there are very limited opportunities for them to perform. Music clubs and teachers who are actually teaching kids come to us and say, “Right, now I need some venue. Now that I have taught them, they need to go out and experience what it is to perform live.” There are very few opportunities for that to occur. We have been lucky and formed a nice association with a couple of the colleges, which bring their music classes through at a particular time in their course for them to perform before a live audience.

On the other side, because of the involvement of certain of our members, we bring a lot of disabled individuals into our monthly activities so that there is that social inclusion. They get a lot of enjoyment out of participating in a group and listening to live music and you can see the reaction of the individuals: they are not just sitting there; they are interacting and getting joy out of being involved in what is going on. So we need to continue that.

One of the aims and objectives of the society is social inclusion and to involve as much of the community as possible, but we really need some sort of venue that we can do that in, because commercial live venues might not be available in the future. There might be just too many impediments to them making a living out of it and they will just walk away from the live music scene altogether.

I think I will stop at this point in time and let Maria say a little bit more.

**THE CHAIR:** Thank you very much.

**Mrs Heffernan:** As Russ says, social inclusion is very important to us. Not only do we have persons with disabilities; we have people with health problems, be they physical or other. Sorry; I have lost my train of thought.

**THE CHAIR:** Perhaps if we start to ask some questions and you can respond, that might help. Have you got a question, Caroline?

**MS LE COUTEUR:** Yes. You talk about needing changes in the building codes and about the civil technology which exists, which it does. I am trying to get clear what you are saying. Are you saying that if you were building a residence near an existing venue then you have to do sound insulation or should every residence have sound insulation? Should the venues have sound insulation? Just tease out when we are going to do it.

**Mr Lawrence:** All right. It is based on the assumption that we have existing venues and that, for example, it may be very difficult for a venue that is 100-plus years old to be sound attenuated to an acceptable degree. I am saying that, not knowing what is in the legislation, I do not know whether there is a certain radius at a certain decibel level that is acceptable, within a radius of half a kilometre, a kilometre or whatever it is. The building code should mandate that within that radius. It means that it is passed on, obviously, to the purchasers of a building. It appears to me that the winners previous to this have been the builders who have put them up, everybody has made money, the tenants have walked in after the event, bought the property and on the first Saturday night they have said: “Oh, my God; have I got to put up with this every

Saturday night?" or Friday night or whatever it is.

The EPA must have done particular studies on it or research must have been done by some other organisation that mandates that within a certain radius there should be a certain sound attenuation if it breaches a certain decibel limit. Maybe the music has to be limited. We have sound equipment at the Statesman Hotel and we limit the number of decibels that the bands are at. We do turn down the sound. We have a monitor which is probably from here to the window away from the bands when they play. If the music exceeds 95 decibels, we self-regulate and turn that down. But that may not be sufficient; it may have to be lower.

That is an area where we think, particularly with residential, there should be a focus. If it is rezoned then within a certain radius the building code should be changed so that you must have a minimum sound attenuation or level—probably not for commercial but for residential.

**MS LE COUTEUR:** To paraphrase, if you were building residential within a certain distance of a zoning which could include a live music venue, you would say that part of the conditions are that you will have appropriate sound insulation, whatever that is. We can leave that up to the experts.

**Mr Lawrence:** Yes. With new facilities, it would not be an issue, but given that we are talking about this order of occupancy, there may be some of the older venues that can be sound attenuated, so that it is not just the responsibility of one sector of the community. The venue itself has to control the sound that comes out of there, and that still should be the case. In a lot of cases older facilities cannot do that; with newer ones it may be quite easy to do it. I suppose the bottom line is that it is a case of money and what they are prepared to pay.

**MS LE COUTEUR:** And whose money it is.

**Mr Lawrence:** The dilemma lies with venues that are landmarks, historical landmarks or that have been a major part of the community for a considerable period of time, and there is an expectation that they should continue to provide the facility that they have provided in the past rather than having their role and function completely change because over here there has been a rezoning and we now have residential areas there and that means we have got to shut this down here. There has got to be some way that the community can cohabit together in all its forms.

**MS LE COUTEUR:** In the newer areas are we building enough spaces for live music?

**Ms Heffernan:** I am not aware of any.

**Mr Lawrence:** No.

**MS LE COUTEUR:** I am not aware of any but I was wondering what your views are.

**Mr Lawrence:** From a commercial point of view, I would say no. Community facilities are a different question. I suppose there are community facilities out there. It

is a matter of whether they are appropriate for providing live entertainment and not just live music. There are a lot of other clubs out there—ballet schools, singing and choir groups. There is a whole raft of organisations that can use that to a varying degree. It is a matter of coming to a happy medium in relation to size, distance from the next community facility and the usage—what is the optimum usage for the best price. That is a dilemma that the government has to tackle.

I really do not know enough about the newer areas, particularly on the north side, to know what exactly is happening there as part of the community infrastructure that is being built, along with, obviously, the town centres and commercial areas where everybody congregates, and whether that is the best place for them. There are already building codes that encompass this town centre. This portion of the town centre is a live music venue because it is already meeting the requirements or fits within the requirements of this square, anyway, rather than having it out here in the community proper. Because of economies of scale and all the other infrastructure costs, it is probably the only place that it can go. I do not think I can comment too much on that.

**MR COE:** This question might seem a little bit abstract. Can you tell us about the capital investment that an organisation such as yours has put into things like microphones, speakers and mixing boards, in terms of what it actually takes for an organisation to become a sustainable live music operator?

**Mr Lawrence:** In the case of the Blues Society, we have not invested much at all, given that we are only a relatively small group. Our bank balance is probably \$5,000 or \$6,000 a year, by the time we pay for bands and other marketing activities. We do not maintain any musical equipment whatsoever because we have to store it, which means it has got to be at somebody's private place or the venue, and usually the venue does not have the storage capacity, and then we have to maintain it. We have got to lug it in and out and we have got to maintain it. Selfishly, we say to the band, "We pay you X and you bring everything."

Other organisations like the folk society have their own equipment. So the artist just fronts up with their acoustic guitar and set up on the stage is the mixer, the PA system and the microphones; they plug it in and away we go. Their mix of individuals obviously would differ from ours and maybe they can maintain it themselves, but there is a cost involved in that. They have to transport that, so they have spent money on building a trailer which accommodates all of that equipment. That trailer moves from venue to venue. When they come and play, the actual society has to move all of that and they have to have somebody that can set it up, that is able to plug it in and do it on a regular basis and actually get the thing working properly so that the sound is right for when the first act stands up and plugs in.

We do not do that. We rely on the bands to do that because they know what sounds they want. It does not matter if we did it, anyway; there would still be a lot of finetuning. For larger activities—we might have a summertime blues party, a winter blues party or an awards night or whatever—we would hire in sound people and pay the money because they do it all the time. They are doing it on a weekly basis and it is just so much easier for us. It is a long answer to your question. We did think about going down that track but we had some people that were musos in bands and they said: "Look, you're really putting on something here that you don't want to be

involved in because there's no way you can control the cost or estimate what it's going to cost you each year to maintain all this equipment.”

**MR COE:** If you are a younger person getting into live music, how do they do that in Canberra if there are not perhaps dedicated venues or equipment actually available to them at the moment?

**Ms Heffernan:** We hold a regular, once-a-month jam to which people of any age can come along. Usually, whoever is into music has their own guitar or has their own keyboard. They might not have the mixers, so we bring them along and we give them the use of our host band's equipment. That is what we are hiring the host band for—for them to bring their equipment, to leave it there for our young people to get up and play with professional musicians, give them a chance to see an audience reaction and hopefully they will keep coming back. We have put on special nights where we have raised money for individuals, depending on what it is, of course. That is how we get around that.

**Mr Lawrence:** We have sent them away to national youth showcases or some other activity. But in the main, unless you have parents with deep pockets or a benefactor that lends you their equipment, they are relying on somebody else to provide all of those facilities. Even with commercial facilities in Canberra, there are not many of them that have that existing infrastructure. There are a few here but most of them have closed down. The Green Room has closed down. That was a very big venue on the south side that had all of the equipment. The other one was the Venue. It now has another name but I do not think it is doing live music anymore. It had a fantastic setup as well. There are probably others around.

Most pubs now will have a stage in the corner and they may have a couple of foldbacks plugged into the wall, and that is about it. So there is an opportunity for somebody that has limited equipment to come along and actually plug into their facilities, but they are very rare. You really have to bring everything yourself, which means that, over time, they have slowly got to fund their chosen profession, like anybody else. If you are a golfer and you want a decent set of clubs, you pay \$1,000 for them, and you pay X number of dollars to belong to a club. It is the same thing: if they are dedicated, they will build up their equipment over time.

Certainly, most musicians would never make a living out of it. We are talking about a very minor percentage that make any sort of decent living out of live music. The rest would do it for love. The majority come along to a facility like ours and we pay the band as though they were playing a three-hour gig but they do not; they just play one opening set, and the rest is for the hire of their equipment—the fact that they bring along that infrastructure that allows another 30 people to get up in that afternoon and play music.

**MR COE:** Where do you do that presently?

**Mr Lawrence:** At the Statesman Hotel in Curtin, which, again, is a central location. That is probably another issue. We have been in a number of venues. It impacts on the crowd and the ability of people to travel from the north side if it is on the south side. We deem Curtin to be roughly the centre of Canberra. There are a number of venues.

The feedback we got from our members from the north side, the south side and everywhere else was that this was a nice central location where they could all go. Within 20 minutes they are there and they do not have to drive from one side of Canberra all the way over to another.

That was the feedback we got from the folk society. They ended up using our venue. They came along and saw how we operated. They started to use our facility as well. I do not know whether they still are because the pub was renovated recently. They found that was a nice central location. They used to be way down south in the Tuggeranong Valley. All the people up north said that it was an hour's drive to get there and it was taking away from their enjoyment, even though they loved it, because once a month they had to do it. If we are talking about costs involved and not having too many community facilities available—

**THE CHAIR:** Accessible communities.

**Mr Lawrence:** They need to be accessible and roughly centrally located. Canberra, at the end of the day, is not that large a city. If you can find a nice area maybe you can get away with a limited number of community-based facilities and everybody is happy to attend because to them it is centrally located, whatever that means. The older suburbs of Canberra seem to be areas that everybody is happy with.

**THE CHAIR:** In your opening remarks you talked about there being fewer hotels and clubs that wanted to have live music. Is this because they believe their patrons do not want live music? Is it because they believe it is too much trouble or are they getting complaints from people who live nearby? Why are you getting the cold shoulder, as it were?

**Mr Lawrence:** There are probably a number of issues. The bottom line is profit. If they are looking at a percentage of return on their investment, they might want 10 per cent or some figure around that 10 per cent. If they hire a band, the band has to bring in all of their equipment and they have to pay four or five guys. At the end of the day, it is what the market will bear. They say, "If I'm going to pay \$500, \$600 or \$800 for a band then my turnover has got to be—if it is \$800, it is \$8,000 extra revenue that I have got to get over the bar that night to pay for this band." A lot of them love live music and that is why they do it initially. As to the expense they say, "That's just part of running my business and being involved in the community and getting people in. Whilst I might not make the money that night, they'll keep coming back and I'll get my patronage up at other times. That will cover it in the long run."

But there is always the question of noise and complaints from neighbours. There are now significant fines involved and they could lose their licence or have their licence suspended for trying to put on music one night a week. I could be shut down for a lot longer than that. It has a far greater impact than the money that I would lose from just that one night. So I think it is a combination of that.

At the end of the day, it is a commercial operation. On a normal Sunday they might have 20 people there or 30 people for the whole day. We come in on a Sunday and we bring a 100 or so people for an afternoon. It runs for 3½ or four hours, so all of a sudden the spike in revenue in that particular area goes up. They have got to be open.

In this case, because they are a motel as well, they have to provide facilities for their motel guests. They have to have a restaurant providing food. We are offsetting the cost of having that overhead there. On that basis we get a nice donation at the end of the year based on the turnover. They are quite happy to see us in this little relationship and it works both ways for us. We have tried it with a number of clubs. You need to work together on it. Many of them do not see that. They are just looking at the bottom line. We are saying, "It's a relationship. We're forming a partnership and it has got to be win-win for both, otherwise we're not going to do it. We're going to move somewhere else if you're not supportive of us."

We do a lot of advertising ourselves. We use as much free advertising as we can. We have our own website. We do a lot of promoting for the venue but, in the main, venues do not do a lot of promoting of themselves.

**THE CHAIR:** Why do you think that venues do not do the promoting?

**Mr Lawrence:** I do not know. It is endemic. Live music venues are notorious for not promoting acts and then they whinge that the crowd was not really the size that they thought and they question whether it warranted spending the money. You say, "Hold on, there's the posters I sent you a month ago; they're still in a tube in the corner." They say, "Oh, well, I've been a bit busy." That is not just an exception; that is the rule. That is the feedback we get from artists. We have a very vibrant blues scene in Canberra. We get a lot of international acts coming through here. A lot of large clubs support acts and we get a lot of interstate acts. So we are not just supporting local ones. The rhetoric we are getting from them all the time is that when they walk into the majority of venues and are looking for their names, they have to say, "We're here. Where are the posters? Are they on the billboard outside or are they in the room?" Some of them have online billboards and all sorts of things.

Some clubs are very good, but the majority are not. It is a case of saying, "You're the band. You bring the crowd." It is supposed to be a two-way thing, where the venue is actually working in partnership to raise the patronage of it. Some are very clued and some are not. It is very frustrating for the artist because many times they are doing it on a shoestring. They are really not making money; they are just living hand to mouth. That is why the guys tour a lot. It is just to get revenue. The guys that come here will do the Press Club on a Thursday night. They used to do the old Canberra Inn on a Friday night, but that has all gone now. They go to Wagga and do Saturday night and then they come back and do the Yacht Club on Sunday. Then they will go back to Sydney or Wollongong.

They do a mini-tour where they have got to do four or five gigs over those days to make it all worth while and make a profit. There is the wear and tear on the car. There are three or four guys and they might have to have Friday off work or leave for half a day, because they have also got other jobs. But even those guys who are full-time musos say it is no good getting on the road and driving a couple of thousand kilometres unless they are making some money out of it. They may have to shoot down to Batemans Bay, Bega or Merimbula for one night and then come back because they need a filler in between because three gigs are not enough; they might need four. Or they go to Warwick, which is way down towards Eden, and they drive all the way back for the next day. Or they go out bush.

**THE CHAIR:** I am getting tired listening to it.

**Mr Lawrence:** When you listen to some of the guys, they have really got to love touring because that is the only way they make money. Hopefully they sell plenty of CDs. The venues are not very helpful in that regard and I do not know why. It just seems to be a culture that they expect it.

**THE CHAIR:** They have an expectation, I think.

**Mr Lawrence:** There is an expectation with some bands that if we say, “So and so is coming tonight,” it will be packed. The word goes out that this band will be playing this night and that is great. But that is for the minority. For the majority there has got to be a little bit of publicity out there. They have to be able to generate that sort of interest from the community that have not heard of them until they get to a point where their reputation precedes them. Then it does not matter where they front up. They know that they are going to pull the right crowd and everybody is going to be happy, that they are all going to make money. They say, “Let us do this, this is fantastic, we will keep this going.” But that is the minority of the bands, unfortunately. The rest of them struggle to make a living.

**Ms Heffernan:** We have started up an advertising grant because of this problem with venues and bands not being able to afford advertising. We have started up an advertising grant, trying to get over this hurdle, to show the venues that if you do put a little bit of money in the people will come.

**THE CHAIR:** I am afraid we do not have any more time for questions, Caroline. You can send it in.

**MS LE COUTEUR:** Okay.

**Mr Lawrence:** We are quite prepared to take anything on written notice and we will respond if that is appropriate.

**THE CHAIR:** That is appropriate; you can do that.

**Mr Lawrence:** We would be quite happy to do that. Sorry, I am no longer the president. I am talking out of turn here.

**Ms Heffernan:** Yes, we will be happy to do that.

**THE CHAIR:** That is what we will do if we have further questions. We will then send you the transcript. You can have a look at that and if there are any problems with it, let us know. If we have further questions, members will get in touch with you. We are happy that you are able to respond in that way. We might come along and listen to the blues band; it sounds fantastic.

**Ms Heffernan:** I did want to touch on the accessibility of venues.

**THE CHAIR:** Yes.

**Ms Heffernan:** Because it is woeful in Canberra. I am very limited as to where I can go because you cannot get in; you cannot get upstairs.

**THE CHAIR:** No, if you cannot get upstairs then you cannot get into the venue.

**Ms Heffernan:** Yes. Thanks for having us.

**Mr Lawrence:** Thank you for your time, thank you.

**THE CHAIR:** Thank you both very much. We will send you the transcript and any other questions.

**Ms Heffernan:** That would be great.

**Meeting adjourned from 3.38 to 3.52 pm.**

**MILLER, MR GIL**, Publican, George Harcourt Inn, George Harcourt Management Pty Ltd

**THE CHAIR:** Good afternoon and welcome to this public hearing of the Standing Committee on Planning, Public Works and Territory and Municipal Services inquiry into live community events. You have read the buff card and you have no problems with that?

**Mr Miller:** No, it is fine.

**THE CHAIR:** Would you like to make some opening remarks?

**Mr Miller:** I have actually got a statement, to add to the submission.

**THE CHAIR:** That is fine, and after that we will ask questions.

**Mr Miller:** I am the publican and part-owner of the George Harcourt Inn, out in Nicholls, a long-established icon of the Canberra community. My wife, Colleen, and I came down and joined partners to take over the George three years ago. We had been living in Canberra for 26 years. We moved up to the Gold Coast, to Mount Tamborine, for a couple of years, before we came back to Canberra at the invitation of my two accountant friends, who are now our partners.

Thank you for the opportunity to present these issues. There are a few issues that are playing in the live music industry in the ACT. I know that your charter specifically says “live community events”, so I am lumping the George and those sorts of things in the same manner.

I think I have made my case in the points I raised in my original submission, and I am assuming you have read those, so I will not take up too much time in revisiting that submission. The main points I raised in it were the rights of newcomers to restrict live music in venues that have a history of producing live music, and the fiscal viability of providing live music. Both of these issues are inhibitors to live music at public venues. The question is, of course: how do we resolve them? I think that discussion in the first instance, mediation, compromise and then policy setting, in that order, is a method.

However, moving forward, there needs to be a policy direction that protects the rights of businesspeople to provide live music to that section of the community that desires it. Zoning issues are an obvious starting point, but I also understand the practicalities of residential development in and around business districts. In these instances I think that developers and real estate agents need to include in any disclosure statements the relevant information pertaining to live music venues in the vicinity and the associated rights of such venues in presenting live entertainment.

In brief, I believe that policy has to be implemented that allows for the presentation of live entertainment under certain conditions, and these conditions have to be understood and disclosed to potential residents before they decide on settling in an area. Mind you, a live music facility in the vicinity can be just as much of a drawcard as a detriment.

I think it bears mention that without some form of assistance live music venues will continue to dwindle, if for no other reason than it is simply not a viable financial proposition. It is hard enough battling EPA officers and residents, let alone trying to make some actual money out of live entertainment. At the end of the day, the only venues that are providing live entertainment on a regular basis are those whose owners are committed to supporting it and, as a result, do the hard yards in keeping their venues open.

The exception to this, of course, is the poker machine venues, but I do not want to get into a discussion about the role that this type of venue plays in our society or the frustration that musicians feel when they are paid to play at a venue where they are competing against the noise of poker machines and television screens. Suffice to say that it is the non poker machine subsidised music venues that really struggle in providing live entertainment. Question: do we want live entertainment to be solely provided by gambling institutions or do we want to assist in the promotion of live music venues that are not club-oriented?

I digress slightly. I feel a need also to touch on the subject of the now defunct Canberra Fringe Festival. I am not sure what the impetus for the formulation of this committee was, but I would have to assume that someone sees a reason for an inquiry into live community events. I would like to think that this committee will also be looking seriously at the grave error that has been made in the ACT's loss of its fringe festival. Every major city in Australia has a fringe festival that gets larger and more diverse every year. What does the ACT do? It cuts funding. I believe that Canberra needs to feel very embarrassed about this.

Good luck with your inquiry. I think you have got your work cut out for you because there are a number of issues that need to be addressed, and if I can be of further assistance, I am happy to do so.

**THE CHAIR:** Thank you very much, Gil. Members, do you have some questions?

**MS LE COUTEUR:** Yes. You said that you thought there was a need for support for live music. What do you think the government should do to support it?

**Mr Miller:** I think the zoning is a real issue. I think that zoning can help a lot.

**MS LE COUTEUR:** You talked in your submission about order of occupancy legislation. Is there something else you have got in mind?

**Mr Miller:** No, order of occupancy. Having said that, it cannot be black and white, and that is why I think there needs to be a discussion. You have got two different sides to this story, or two different parts. You have got venues that are established that are now in residential areas, and others, such as the George until recently, which has been all on its own, so noise has not been an issue. Having live functions there has not been a problem, except now we have the Promontory, which is down at the end of Edie Payne Avenue, and there are something like 50-odd units down there—quite nice units. I must admit that the people there are very tolerant because I know that, if I put music outside at the George, you can hear it down there. Half my staff live down there, so they hear it and come up. The other issue, of course, is further back in Nicholls. I

cannot remember the names of the streets.

**MR COE:** Temperley, isn't it?

**Mr Miller:** Temperley, exactly. All the streets that run off Temperley are within our area as well. I am not singling out the George. You have got the Old Canberra Inn and the issues that they faced with live music. The Press Club is pretty lucky. They have got almost a soundproof venue. Once again, I think they are restricted as to the times they can do music. I do not think there is any problem with restricting the time, but I think it is really awful when someone rings up at 9.30 on the Saturday of an Australia Day weekend because you have got a band playing and tell you to close it down, and that is exactly what happened to us last year because one person complained.

**MS LE COUTEUR:** Was that a phone call from the authorities?

**Mr Miller:** Yes, it was, from the EPA.

**MS LE COUTEUR:** 9.30 is not that late.

**Mr Miller:** No. I would like to be in a position to be able to say to someone when they ring up, "Look, I'm sorry, sir, but we actually are licensed to play this music until 11 o'clock tonight."

**MS LE COUTEUR:** In that instance could you have kept playing legally if you were less loud? Was it that your absolute amount of noise was too high, regardless?

**Mr Miller:** Yes, it was.

**MS LE COUTEUR:** Even if it had been noon it would not have made any difference; you were just too loud. It was not the time of day?

**Mr Miller:** It varies. Venues can address these issues with outdoor music. You can actually face your speakers in a particular direction and have the sound okay. But if it is off to the side, which it is whenever we play at the George, it is still too loud. The rules are that they have a meter and if the meter is so much more from the boundary of the person that is complaining, you must turn the music off or down. At night-time, when you are out the front of the George, if you play music out there, it is going to carry.

It is unfortunate because they have had live music at the George for years. We actually cut out live music at the George when we first arrived three years ago. We had live music every Thursday, Friday and Saturday nights. We cut out the Thursday night, put jazz on Sunday afternoon in the rear courtyard and it was great. But after eight months, it was costing us something like 1,500-odd dollars a week to pay to have the music. If you are a business that operates on about a five per cent net profit and you pay \$200 for a band, you have to make \$5,000 over what you would normally make in order to cover the cost of the music. We are not a poker machine establishment, so that is a lot of money.

**THE CHAIR:** You talked before about the different steps that you would take, and

you have written about those. You actually put the regulation last. You talked about the consultation process coming first—everyone sitting down and talking about it—and after that legislation being introduced that would address the issue. Is that the way you see it happening?

**Mr Miller:** Yes. I could be wrong. It seems logical to go through that process. We need to have developers involved in this sort of conversation so that they understand the requirements. Developers are going to get their maximum buck out of their development, and a live music venue may well be detrimental to what they are trying to do. But I do not believe that is in the best interests of the community.

**THE CHAIR:** That was my next question: who would you involve in that consultation process? Which parties, which stakeholders, would you involve?

**Mr Miller:** You would need someone representing the hospitality and music industry. You would need someone representing local government. Of course, you would need someone representing the development industry in some form or another. You would need someone from a residency group. That is off the top of my head; I have not thought about the kind of make-up. They are the parties that are affected by all of this. If you get those various groups together that all have a vested interest in the noise at night, which is what we are talking about here, you can probably work out some compromise. There has to be compromise. You cannot have it all one way or the other, but at the moment it is all one way.

**THE CHAIR:** I want to follow through on the complaint that you talked about before. Was the complaint about the actual music carrying or was it a complaint about the noise that the patrons were making?

**Mr Miller:** The music.

**THE CHAIR:** Definitely the music?

**Mr Miller:** Yes. The patrons are fine.

**MS LE COUTEUR:** So you are talking about consultation on a broad level. When you first went through it, I thought you were talking about each venue, if it has problems, would then—

**Mr Miller:** No.

**MS LE COUTEUR:** I guess you could say that is what we are trying to do with this process, not necessarily as successfully as we would like because I do not think we have had any developers interested in it, for instance.

**Mr Miller:** Yes. You can understand why.

**MS LE COUTEUR:** I think it is probably that they simply have not heard of it, actually.

**Mr Miller:** Yes.

**MS LE COUTEUR:** Not everybody follows our activities.

**Mr Miller:** No, that is right.

**THE CHAIR:** Surprisingly enough!

**MS LE COUTEUR:** Surprisingly enough, we do not think we are the centre of the universe.

**Mr Miller:** And if it had not been for you walking up to me, I would not have known.

**MS LE COUTEUR:** Exactly. It is very hard to get the word out as to what we are doing. One of the reasons we are having this inquiry is to have a conversation about what should be done.

**Mr Miller:** I think the AHA is a good starting point for that sort of stuff. With respect to the point that I heard the Blues Society make about musicians coming here, going to the Press Club, going down to Wagga, coming back for Sunday at the Yacht Club, that can be improved on. The reason that happens is because most of the musicians have got—sorry, I am digressing here—agents here in the ACT. Those agents are attached to different venues. If there was more synchronicity between the venues and the players, the musicians, we could then organise to get the players to play three or four gigs—Thursday, Friday, Saturday and Sunday, in the ACT, if enough people were aware that that band was coming to town. But because they are tied in with an agent, those agents only have access to so many venues. So we could avoid that. That is an academic exercise that—

**MR COE:** Is there a shortage of performers, do you think?

**Mr Miller:** No.

**MR COE:** No?

**Mr Miller:** I do not think so.

**MS LE COUTEUR:** A shortage of good performers? I am sure there is not a shortage of performers but—

**Mr Miller:** Horses for courses. Last Thursday, Friday and Saturday we had music every night. It just happens every now and then because, as a venue, if we have a function on and they want music, we go halves in the cost of the music. That means that, yes, they will have music for their function but it also means that the rest of the pub can participate with the music. It is a great way of doing it because it means it costs us half as much, the people can have live music at their function and it costs them half as much. That is how we are able to have music.

The other way that I organise for us to have music is to get people in there on a weekend and just playing off to the side, entertaining the outdoor crowds on a sunny day, as a bit of a promotional thing for them. They can hand out their cards, so they do

not charge me. That is from a musician's point of view, and that is a lovely way of having live entertainment. But we just could not afford, as I say, to be paying people all the time to have as much music as we would like.

We do not necessarily want music all the time because the sort of ambience that we have built up at our particular establishment is such that it is just background music. People can sit down and talk and enjoy themselves without having to worry about a band. I think that part of the reason why we have built up the business we have is because we have not got live music there all the time. That is the other side of the coin.

I think the issue is the legislation in relation to noise and being able to have live music at different times. Maybe it is a permit-type process, but the thing is that if you have to put in a permit every time you want to have live music, you cannot do it. It is not going to work. So I think there need to be zones. This is something that a concentrated group could probably sit down and nut through if there was the government will to do it.

**MR COE:** Do you know of other venues that are going through this same sort of a conundrum that you have faced over the last few years? The George Harcourt is a bit unique in terms of its history and also its actual physical position, in that it is not around houses.

**Mr Miller:** I think the Old Canberra Inn is a classic historical study of a live music venue that has come and gone because of the fact that they are in such close proximity to residences. And, yes, the George has been unique in that it has been almost in the country for 20 years, but now it is in the suburbs and people are there. It is almost like shutting the gate after the horse has bolted at this stage because there are not going to be any live music venues built in the country and with stuff built up around it. What we have to do now is start looking at policy to allow live music at certain venues which currently have residences. Of course, that is not going to win votes either. You are going to get residents saying, "We've got a right to be here." But the people that were there 20 years ago had a right to play their music too. It is a bit of a conundrum, yes.

**THE CHAIR:** I have a question following on from what you were saying before about the complaints. A lot of people have mentioned other people complaining, so this seems to be a feature of this issue.

**Mr Miller:** It only takes one person.

**THE CHAIR:** Yes, that is right, and that is what a lot of them have said: it just takes one person. Do you have to have the music amplified in that way or is there a way that the music could still be heard by the patrons if you just had the acoustic music?

**Mr Miller:** Well, you could not have any amplification; you could just play—

**THE CHAIR:** What—because it is background, I suppose?

**Mr Miller:** acoustic guitars. That is a certain type of music. Yes, you could have that on a weekend, but I think when people go out to be entertained with live music at

night they are looking for amplified music. One of the problems that we face as a venue is that we have not got a lot of room inside, and on a hot summer night it is absolutely beautiful out the front so that is where you naturally put the music. I know that as more people settle in the area—and they are; we have a whole suburb going up next door to us at the moment—we are going to find those issues coming up more and more. But I am not alone.

**THE CHAIR:** You said that a lot of your staff are currently living in one of the places that is very close to you. Is there a way that you promote yourself with the people that are moving in? As they are moving in, do you promote the fact that you are there and you are an asset rather than—

**Mr Miller:** No. There is no avenue for us to do that. We do not know who is going to be settling in the area. We could do leaflet drops and let them know that we are in the area, but, once again, they do not get that until they have moved into the area. We advertise. We have our various forms of promotion for music—online, onsite et cetera. We have an organic growth in our business at the moment because of the natural population around us.

**THE CHAIR:** Do you have another question?

**MS LE COUTEUR:** You briefly alluded to the poker machine supported venues. Would you like to say more on that—not that I am trying to support poker machines, but the two types of venues—

**Mr Miller:** The clubs provide extra income for musicians. I speak to musicians all the time and I know they will take gigs at clubs because it is money for jam. They could be playing to no-one, absolutely no-one, if people are playing the pokies and the musicians are given an area to play in. I do not know—you would have to speak to ACT clubs—whether it is because they have to have a certain amount of live music in their licensing agreement or not. But I do know that a lot of time musicians play at clubs, in a corner, for a few hundred bucks, and they play to no-one—or some sporting event comes on, the television gets turned up and they are drowned out, or they are asked to turn the music down. It happens all the time. It is unfortunate, but once again it is another conundrum: these musicians accept the jobs because it is income for them.

The Southern Cross Club are a classic example of excellent music and meals, entertainment, because they make an issue of it and they can afford to do it. But of course you cannot get smaller establishments doing that sort of stuff. For the last two years the George has had a GeorgeFest with a band, music, from 3 o'clock in the afternoon until midnight and the place has been absolutely packed. It has been a great afternoon, but we start getting complaints at 10 o'clock. I say, "Well, it will be off by 11," and we close it off by 12 and then the complaints arise—

**MS LE COUTEUR:** We did not hear that.

**Mr Miller:** The thing is that we lost money. It was an absolutely marvellous day and people keep saying, "When are we going to have it again? When are we going to have it again?" But, with the amount of staff you have got to have on and the cost of the

bands, we lost money; but it was a great event. This year what we have decided to do is put music on every Thursday night, in place of the GeorgeFest, and that is where our money is going to go this year. But we are going to come across the same issues, the complaints. And they are entitled to complain—until the live music venues get some form of protection. Something has to happen there; otherwise, we are just not going to be able to play live music.

**MR COE:** So do you think that is the only role of government in solving this problem?

**Mr Miller:** I think the zoning stuff is—

**MR COE:** Zoning and perhaps protection? Is there another role in terms of the actual promotion of live music, facilitating bands coming to town or supporting new acts?

**Mr Miller:** There are probably a number of things. It would be good to have a central music register or a website that people could go to to know all the music that is on. At the moment you can go to specific websites of the promoters and see what music they have got on, or if you are lucky enough to catch “Fly” in the *Canberra Times* you can get in there. Paying for advertising—display ads and that sort of thing—once again just adds to the cost and they are more costs that you have got to recoup. Is it going to be lost? Are you advertising in the right places? We used to do leaflet drops. They were very successful, but we are in a fortunate position where we do not want to do leaflet drops now because we cannot fit people in. We are extending next February so—

**THE CHAIR:** Well, it sounds successful anyway if you are extending.

**Mr Miller:** The George has no complaints. As a business we are loving it and we are providing a nice environment for people, and they are loving it as well. But we have got summer coming up, and that is when we start putting the music outside. We have had music inside, as cramped as it may be at times.

What can government do? I think I actually alluded to it; we need to sit down with all the interested parties and have a discussion about the issues and thrash them out. Monetary assistance? I do not know. The idea that I was talking about, about the synchronisation of music when bands are coming to town, is good because the bands can charge less. That is what I was getting at. If they know they are getting a number of gigs in the one town, they can charge less. I have a band called Finn that come down here from Sydney on a reasonably regular basis. They are actually tied up with another promoter, but it costs \$650 if they come down from Sydney to play for the night. But, if they were doing another gig in town at the same time, they would charge me \$400. That makes a big difference.

**THE CHAIR:** As no-one has any more questions, thank you very much for appearing before us. We are going to send you a copy of the transcript, and if there are any problems with that please let us know as soon as you can. If members do think of other things they wish to discuss with you, or have questions, we will send those to you and you can get back to us with those.

**Mr Miller:** Fine.

**THE CHAIR:** In the meantime, it is up to us to go and catch whatever you are playing, isn't it?

**Mr Miller:** Thanks very much. We are supporting a young band of 17-year-olds from Radford College at the moment. We give them a gig every second Thursday night. They play *Sex on Fire* really well. What is that? Do not ask, Mary.

**THE CHAIR:** Don't ask? No, but it sounds interesting, doesn't it?

**Mr Miller:** Great, guys. Thank you very much for your time.

**BAYLISS, MR PETER**, Managing Director, Into Tomorrow Pty Ltd  
**RYAN, MR DAVID LEO (BRUCE)**, Indyfest

**THE CHAIR:** Good afternoon, Mr Bayliss and Mr Ryan. Would you like to familiarise yourself with the buff card that is on the table before we start. Welcome to this public hearing of the Standing Committee on Planning, Public Works and Territory and Municipal Services inquiry into live community events. You have read the card. Could you acknowledge that you understand the implications of the card?

**Mr Bayliss:** Yes.

**Mr Ryan:** Yes.

**THE CHAIR:** If you would like to make some opening remarks, we will then go to questions.

**Mr Bayliss:** My background is primarily as a musician, music manager, promoter, agent—a whole swag of things. First of all, I would like to thank the Assembly and the committee for having us appear and for providing an opportunity for the various participants in the music industry to have some input into these issues. It was really interesting to hear the fellow from the George Harcourt, from a venue perspective. We have all got different perspectives, so it is really important to go through those perspectives and to find a balanced, well-considered approach. That is certainly something that we advocate.

For us, the important issue is certainly around being very open and consultative. I have not seen what APRA presented earlier today but I am sure they would have alluded to the live music revolution website, where they have the comparatives across all states, the various zoning legislation and things like that. It is really interesting to see what common issues occur on a state and territory basis. It seems to be the same things coming up all the time—that is, if there are changes in zoning laws, residential properties will be developed in an area where there are live music venues. It seems that the developers have very much the ear of the people in power.

With respect to licensing laws, New South Wales, for example, had the POPE legislation, which, thank goodness from a live music perspective, has just been amended. Hopefully, there are a lot of mechanisms by which government can really affect live music, and music in a broader sense, and therefore the culture of society.

I think it really needs to be addressed in a holistic manner, looking not only at the live music perspective for that individual performance but at what effect it has on the artist's development, the outlets right from when they start playing in the garage and try and find mates at school to play with, right through to when they are on the national and international stage and selling out the Royal Theatre, and any issues that may represent. So there is certainly the developmental stuff around that.

There is also the effect it will have with issues like digital downloads and the piracy that is going on, having regard to the decrease in revenue streams that artists will suffer. So the increase in live performances, from a revenue perspective, is important in being able to make a living. I would certainly be advocating a holistic approach,

keeping an open mind to everything and anything, and being creative in finding solutions.

**Mr Ryan:** I am with Liquid Enterprises, and I am involved with event management with Indyfest. I got interested in this sort of area through mates that have been involved in bands and through band management and event management. I have nothing more to add. A lot of our stuff is in the submission, anyway, and I am keen to answer questions if you have got them.

**MS LE COUTEUR:** It is a very good submission, which actually makes it harder to ask questions. You have already answered a lot of the questions one would like to ask. The order of occupancy legislation: do you have a particular state that you would model that on?

**Mr Bayliss:** It is probably more what states not to model it on.

**THE CHAIR:** We can come from that direction as well.

**Mr Bayliss:** Victoria is one we used as an example, with the Rainbow Hotel. There are a number of venues in Fitzroy, for example, and the Esplanade Hotel in St Kilda that have had a range of issues where the zones have changed. For example, the Rainbow Hotel has been operating since 1930 and playing live music. Suddenly, the zoning changes and more residents come in. It is one block back from Brunswick Street, so it is actually right at the hub. There is still a lot of noise anyway. It is predominantly a blues and acoustic music venue. Recently, two or three years ago, they have gone out of business due to cranky residents, so to speak, and complaints. It is an Australian icon. The Hopetoun Hotel in Sydney, since we wrote the submission, I think about four weeks ago, has closed its doors due to a lot of the licensing and zoning regulations as well. The leg-up those venues provide to artists is crucial to young, independent, original musicians and songwriters trying to learn their craft and ply their trade.

**Mr Ryan:** I was walking through the city today and reminded myself that there was the Terrace Bar that used to be underneath the Westpac building. I recall that, if it was not for the Terrace Bar, there would be bands that just never had a chance to get up and get their first gig, get an opportunity to play in front of an audience and get a real feel for whether or not they were going to be any good at doing this sort of thing. This is the crucial bit to my mind. Those are the places that are getting impacted the most—the ones that really give people that opportunity. They might get to play at parties or they might get to play at their school, in terms of development opportunities, but the small hotel or the small venue is the next stepping stone, and you need to keep that in mind.

**MR COE:** In terms of the lack of recognition or the lack of appropriate legislation, what have we forgone in the ACT in the last five or 10 years or so, in your opinion, that would have actually protected the opportunities that existed in some of these bars and pubs? Can you quantify it?

**Mr Bayliss:** It would be very hard to quantify it. I guess the flagship of it would have been the Gypsy Bar. This is a business-to-business, right-of-first-use issue. We would

probably advocate right of first use rather than right of first occupancy.

**MS LE COUTEUR:** Can you distinguish a bit more between right of first use as distinct from first occupancy?

**Mr Bayliss:** Where there has been an existing venue, whether the licensee has changed or they have put a bistro in a bar area, as opposed to which licensee was there first, versus which developer is there first.

**MS LE COUTEUR:** So it is on the basis of the building, not the owner. Is that another way of saying it? The building and what happens in that building—

**Mr Bayliss:** Kind of.

**Mr Ryan:** The activity.

**MS LE COUTEUR:** rather than who owns it.

**Mr Ryan:** Yes, so there is that opportunity where there is a change of hands, and we are worried about the occupancy-type situation, as well as the activity, if you like—what it was originally used for.

**Mr Bayliss:** With the Gypsy Bar, the original Gypsy Bar, which was underground in the bus interchange, new owners took over and bought a number of the properties along East Row and established Cafe Macchiato, which is where the Bourbon Bar is now. Prior to that, the music venue existed. It had gone through a few different licensees. It was the Terminus Bar, and a few other things before that. With Cafe Macchiato, the owners bought up half the block, established a restaurant and then complained. Eventually, lots of legal action ensued. The owner of the Gypsy Bar was asked to provide a lot of insulation, amounting to hundreds of thousands of dollars, which, of course, had he known prior to going in, could have swayed his decision to enter that business, or that location, one way or another. But that venue existed, and it was a great venue for live music for decades.

A new restaurant owner or cafe owner came in, complained, and there were extensive legal ramifications. The owner moved the venue to underneath, where Fernwood is now, in the middle of the bus interchange, but the damage was done to the business. The money was getting funnelled into legal actions, so they could not promote the venue sufficiently. They could not bring the right acts through and could not pay them the right fees, so they would go to other venues or they simply would not come through Canberra. That has a flow-on effect for the up and coming Canberra artists doing support shows for those artists, and a whole range of ramifications. I guess that is the local flagship, if you like.

**Mr Ryan:** We heard the Old Canberra Inn mentioned before as well. The Old Canberra Inn is a classic, I think. That fellow beforehand was sounding fairly enthusiastic and will probably just wear what he has to in terms of running his business or whatever, but again, the George Harcourt sounds to me like one of those great places, especially for outdoor activities, which I imagine will be curbed as suburbia encroaches, unless we do something about it.

In terms of noise travel, it is during the daytime as well as during the night-time. With the University of Canberra and the big gigs they have been having for the last few years, they have had to turn that gig around because of noise complaints from the settlements around Bruce stadium, which is half a suburb away.

**MR COE:** This is Stonefest?

**Mr Bayliss:** Stonefest, yes.

**MS LE COUTEUR:** That is at least half a kilometre away.

**Mr Ryan:** Yes, it is across all those playing fields—where they have got the actual venue set up, the stage set up. Sound travels.

**Mr Bayliss:** Yes, they have reduced it, I think. It was over two days.

**MR COE:** Yes, it is a one-day event now, isn't it?

**Mr Bayliss:** Yes. They had 15-odd thousand attendees over the two days, and now it has downscaled remarkably.

**Mr Ryan:** Trackside was having the same sort of issues in terms of the way they are setting up their stages. They were having noise pollution in Watson. This is at the racecourse.

**MS LE COUTEUR:** I would not have called that Watson—the racecourse.

**Mr Ryan:** No, but that is where the people were complaining.

**THE CHAIR:** That is where the complaints are coming from.

**MS LE COUTEUR:** Okay, yes.

**THE CHAIR:** So it travels over the highway.

**MS LE COUTEUR:** I live in Downer and I hear the racecourse during the day when they are calling the races.

**Mr Ryan:** So you can imagine a music event there, yes.

**THE CHAIR:** Have you put in a complaint about the races?

**MR COE:** But if you are at the races, it does not count.

**MS LE COUTEUR:** What do you think the government or the community as a whole can do to encourage up-and-coming young bands and amateurs, the small players in the live music scene?

**Mr Bayliss:** I guess on the venue side of things, when we talk about establishing

entertainment precincts, they are a fabulous idea and they are really vital, in our opinion, to continuing opportunities. But places like the youth centres may not necessarily be established in a precinct. If you cut off those, you cut off your 14, 15 and 16-year-old kids playing in front of their friends, learning their craft—having 50 people, 100 people, screaming at their music, getting a real buzz and getting a taste for it.

I think a broader approach than just saying, “Okay, we’re going to have arts precincts”—and potentially it is one thing that the government could consider—would be to look at encouraging investment, whether it be residential property developers, venue operators or educational institutions, to establish things, and giving subsidies for the noise insulation so that you are actually winning. From a tax point of view, you are getting all the developer licence fees and whatever, but you are also encouraging the arts, the venue, the employment opportunities and things like that, and vice versa.

**Mr Ryan:** Some of the things you guys do already, I think, are pretty good. I believe that you have a list where people can at least enrol and get involved or get invites to gigs that you guys hold, like the festivals and things like that—the gigs in Garema Place and things like that. I think that is a really good thing.

Regarding liquor licensing, as far as I know, at the moment it is difficult to have gigs at established venues. We used to run Indie Fest for quite some time at the ANU Refectory. Since they changed their policy and were not real keen on having kids there, we tried to find other venues. Apart from the youth centres—and youth centres are great—it is difficult to get an under-age gig held at a licensed venue.

South Australia has got a really good set-up in terms of the way that they support those sorts of things. Again, it is a little like what the fellow from the George Harcourt was saying before about supporting the sort of level where people are just starting to take that next step. A lot of time the kids are saying that they have difficulty in finding the right venues. The youth centres are not necessarily the ones that they need in terms of space, staging, sound quality—all that sort of thing. Potentially, the venues would be the next step for them, but they do not get the opportunity to do that because of the liquor licensing restrictions. That would be something you guys could get involved in.

**Mr Bayliss:** In the submission we mentioned the bollards as well.

**MS LE COUTEUR:** You did, yes.

**Mr Bayliss:** That is certainly a contentious issue.

**Mr Ryan:** It is a low-cost thing, again, in terms of the fellow mentioning that, from a business objective, he is finding it difficult to advertise or to promote bands. Bands themselves find it very expensive to advertise and promote so they get their parents or somebody to do some posters for them. They spend a hectic evening the night beforehand or at night three weeks before the event or whatever trying to put up some posters around the place. It is difficult to find that opportunity.

**MS LE COUTEUR:** You talked about bollards. Is there any reason for bollards as distinct from walls?

**Mr Ryan:** No.

**MS LE COUTEUR:** From what I see, the ACT already has a lot of walls.

**Mr Ryan:** That is right.

**MS LE COUTEUR:** Designating spaces on those, which is okay, might be—

**Mr Ryan:** In terms of walls, only the idea of making it a mural and then having a defined space where you can put posters and collaborate a little bit of artwork with a little bit of poster work type stuff. A lot of poster work is artwork anyway. I am not necessarily saying that bollards are the be-all and end-all, or whatever. I would certainly like to see some alternative ways or opportunities. I have been in Canberra for a long time so I am not that big a fan of billboards and that sort of thing. There has been a culture that has grown up in terms of postering. People have tended to be relatively sensitive about it, but it would be great if there was the assistance there. There are a couple in the city, at the ANU and the UC.

Speaking of the couple in the city, there were the two big ones in Garema Place that were bollards and then became works of art. I do not know whether they were always originally going to be works of art and whether the postering community got the wrong idea or whatever. But for some time it was a fantastic location in terms of thoroughfare, visibility and all that sort of stuff, and then it got changed into a work of art. The work of art is lovely and I must admit I am surprised no-one has ever postered it.

There were a couple of other bollards that got put up around the city, which was great, but not enough to my mind. I was just a little bit worried—and I love public art—about that little sculpture on top of the one in front of Ali Baba's. It is sort of like, "Oh my God, are they going to turn that into a piece of art and have we lost another bollard?"—whereas we need more bollards and/or alternatives for legal postering.

**MS LE COUTEUR:** Yes, very much agreed.

**THE CHAIR:** You mentioned the New South Wales legislation. You also mentioned Victoria. Are you familiar with what has been happening in Fortitude Valley?

**Mr Bayliss:** Not in depth, but it is very similar.

**Mr Ryan:** A few years ago there was a lot of hoo-ha about the residents and their complaints. I am pretty sure that they did something in favour of their local businesses and local live music, but I am not quite sure what it was because I have not heard much about it since.

**Mr Bayliss:** I cannot remember the title of it.

**THE CHAIR:** They got everyone together, it appears, and talked. They had

roundtable discussions and apparently that was very helpful.

**Mr Bayliss:** That would be great.

**MS LE COUTEUR:** Your last recommendation is:

Zoning considerations to think more broadly than “just” establishing arts precincts and identify ways to incorporate diversity within any given zone.

How would you do it?

**Mr Bayliss:** When we did the submission that was partly what we were talking about before with youth centres, for example, scout halls and local pubs like Page. They used to have a pub in there at the shopping centre, Charnwood. There are taverns all around Canberra. With the urban crunch, effectively, they are slowly but surely getting squeezed out. It is obviously not the only factor. It is about utilising space for the benefit of the arts, because it is not just about live music; it is about encouraging the arts. We know that the ACT has always had a really strong reputation in terms of championing the arts and cultural diversity.

I guess one of the things we wanted to do was to try and encourage the bringing of legislation up to speed with those intentions. Like the fellow from the George Harcourt said, it is not to do it at the exclusion of other opportunities like development—that is part of the great vibrancy of a community—but it is about having a really balanced approach and not chopping one off. It is kind of like the greenhouse gas thing. We can do something now or we can do something later and it might be too late. We might not have any opportunities for the kids or the established acts or anything in between to play here.

Canberra is a very fickle music market. The kids can play the youth centres and get a real vibe happening, then when they graduate to the ANU, the Pot Belly and other venues like that, they can maintain a certain level of crowd but then they need another leg-up. If you do not have the middle-tier artists coming through town from Melbourne and Sydney and whatever, the medium to larger triple J bands, for example, then they have got nowhere else to go to keep progressing.

With the insurance issue, the Wig and Pen used to have live music every week. Tilley’s have pulled back their performances to roughly once every six weeks now and that has really hurt. We used to have Eric Bibb and Luka Bloom. A few of those still come through because they are Paulie’s favourites, but we have really lost a couple of great opportunities there to continue that sort of thing.

As to the flowthrough of artists, having the major artists here, there is nothing better for a local artist once they reach a certain stage than hopping on stage with Eric Bibb. It does not matter which major artist it is, whether it is a national or an international artist, it is about being on stage supporting them. It is a great thing for their bio, it is a great thing for them to sell and it is a great experience; they learn a heck of a lot.

**THE CHAIR:** What is the insurance issue?

**Mr Bayliss:** A few years ago when the public liability insurance went through the roof, a big component of that was that if you had a live performance or a large public—

**Mr Ryan:** A lot of venues shied away from keeping their public liability to the extent that they would have live performances. They chopped back their public liability so they did not have to cover the expense, because it really kicked up. It is one of the reasons why the Canberra musicians—

**CHAIR:** That has not come back again? I thought that the government had worked very hard to address that.

**Mr Ryan:** It has, but not as much as—it would be nice if it came back with more, I guess. It is one of the reasons why the Canberra Musicians Club formed. It has arranged for public liability for itself that it can offer to its members because it has been such an expensive thing.

**THE CHAIR:** Having the group liability insurance, yes.

**MS LE COUTEUR:** You talked about a need for legislative changes. Obviously we have talked about order of occupancy and those sorts of things. Are there any other legislative changes that you think we need?

**Mr Bayliss:** I come from an accounting background. The whole thing about a good plan is one that is flexible. It is a live document, effectively. I guess it would be working with the related parties and all the stakeholders to come up with a model and then tweaking it, depending on what else comes out of the woodwork.

**THE CHAIR:** It seems to be a common theme. As there are no further questions, we have finished.

**Mr Bayliss:** There was one other point I wanted to raise. I am not sure if you are aware, but PPCA, which is one of the two collection societies—there is APRA, which presented today, and then there is PPCA, which is effectively the record label collection society—has increased its licensing fees—APRA has as well—for venues by extraordinary amounts, to the point where it has the potential impact of going two ways. It is either going to stop DJs spinning discs in any venues and having an influx of effectively pirated or non-copyrighted music from overseas, or it will increase live music performance in those venues. We are hoping for the latter.

**MR COE:** As big as your club sector.

**Mr Bayliss:** Yes. Personally, I think it is a crazy move; you are just shooting yourself in the foot. That is why now is a really good time to address a lot of these other issues, because you have this potential push back to live entertainment and more opportunities, I guess, through the club sector and pub sector. It is highly important to take advantage of that, if we can, and reduce any other barriers that are nonsensical. If they are sensible, that is fine.

**CHAIR:** I thank both of you. We will be sending you a transcript of this afternoon's

proceedings. You can check that and let us know if there are any problems with it. Sometimes words just disappeared as we were having a little bit of difficulty—

**Mr Ryan:** I was mumbling into my beard. I am sorry about that.

**CHAIR:** So you would not mind if we filled in the mumbled bits. If we have any other questions we will certainly get those to you. Would you be happy to answer those?

**Mr Ryan:** Absolutely.

**Mr Bayliss:** Sure.

**CHAIR:** Thank you very much for coming in. Good luck with your performances et cetera.

**Mr Bayliss:** Thank you.

**CHAIR:** Let us hope that that fee charging does have the effect that you were describing and not the opposite. We do not want the opposite, that is for sure. Thank you very much.

**Mr Bayliss:** Thank you.

**The committee adjourned at 4.47 pm.**