



**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**

**WEDNESDAY, 28 JULY 2010**

**Secretary to the committee:**  
**Mrs N Kosseck (Ph: 6205 0435)**

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

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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*Amended 21 January 2009*

## **The committee met at 2 pm.**

**HOGAN, DR ANTHONY**, Fellow, National Centre for Epidemiology and Population Health, Australian National University

**WILLIAMS, DR WARWICK**, Senior Research Engineer, National Acoustic Laboratories

**THE CHAIR:** Good afternoon, and I welcome both of you to this public hearing of the Standing Committee on Planning, Public Works and Territory and Municipal Services into live community events. You have a buff card in front of you, the privilege card. Could you confirm that you have read it and understand it?

**Dr Hogan:** Yes, I do.

**Dr Williams:** Yes.

**THE CHAIR:** You are here from the Australian National University and the National Acoustic Laboratories. Thank you very much for your submission. Would you like to make some opening remarks, and then members can ask questions?

**Dr Hogan:** Thank you, Madam Chair. I am a social epidemiologist, and my background is 25 years with people with hearing loss.

**Dr Williams:** I am from the National Acoustic Laboratories in Chatswood. It is a federal government body. I am a senior research engineer. I am involved basically in the effects of noise on people and how it affects people.

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

**Dr Hogan:** If it is okay with you, Dr Williams will talk about what is a safe level of noise and will actually then scope out what we see are the intersecting issues and concerns around various pieces of legislation that regulate noise in our society. I will then talk on the health effects of hearing loss which result from excessive noise exposure. In our concluding comments we would like to outline some possible ways forward through the problems we are going to raise today. I will hand over to Dr Williams. We are very lucky to have Dr Williams with us today. He is one of Australia's leading acoustic specialists.

**Dr Williams:** We saw this as an opportunity, because quite often noise, particularly in entertainment venues, is handled by three different areas. It is handled usually under the environmental areas, where people do not want to be annoyed by noise. It is quite often handled also by the liquor laws—the effects of having premises or an entertainment venue in public areas or in public spaces that can create noise. What is sometimes forgotten is noise and its effects on people, its effects on their hearing and the possibility of losing their hearing et cetera. So quite often, under legislative frameworks, aspects are handled separately and they do not often talk to each other. So someone can be addressing one issue quite well while almost ignoring another.

I notice in the ACT the current environmental regulations are basically the ones that are available for the venues so far. The liquor laws refer to these also and the

environmental one refers to the New South Wales environmental code of practice and the way you handle problems with annoying noise for people. One of the points we would like to address as well is this effect of noise on people and their hearing, both the people who are working at the venues and those attending the venues. These interact with the amount of noise that venues produce and send out into the surrounding neighbourhoods. So they are looking at annoying noise as well.

One of the things we will talk about in a while is that while it is acknowledged that there is a certain noise exposure that you are allowed, that it is permitted to have, it is not a safe exposure; it is called an acceptable risk level for exposure to noise. It is interpreted, the parameter that is measured, as an LAeq, 8hr, which means you can have an average noise level of 85 dB A-weighted for an eight-hour period. It is a chunk of energy, a chunk of sound, that you are permitted to be exposed to in a normal workplace. Under the regulations, that encompasses both people who work there and other people who may be at the workplace for whom there is also a duty of care.

**Dr Hogan:** That is under the Occupational Health and Safety Act.

**Dr Williams:** Yes.

**Dr Hogan:** There is a duty of care to protect the people who are employed at the venue, but also anyone who comes onto that venue is caught up in that act. Our experience generally is that those parts of the act are not enforced.

**Dr Williams:** As part of the proceedings, I submit this report called *Binge listening*, produced by Australian Hearing, which is the parent body of the National Acoustic Laboratories. It talks about entertainment noise and the potential damage that it can do to people. So we are trying to raise awareness. We are not trying to say, “Don’t do it; stop having fun,” and be complete killjoys. We want to make people aware that hearing loss is a problem in later life because it is cumulative; just as exposure to UV radiation from the sun is cumulative, it is a problem, and it adds up to an effect in later life. Dr Hogan will talk about it having implications for quality of life later on.

**Dr Hogan:** Do you want to talk about the actual exposures you have measured—noise exposures at music events?

**Dr Williams:** To make it easy, we will not talk in decibels. Usually people’s eyes glaze over when you start talking about decibels. So what we talk about is allowable limits. Let us say you are allowed, under current regulations, to be exposed, in the workplace, to one unit per day, which is 85 dB A-weighted for eight hours. So that is the chunk of energy. For instance, recently there was a big revival concert for ACDC in Sydney, and the equivalent exposure you would get there would be 25 times that one permissible daily allowance; you got that in a two-hour period at one of those concerts. We also looked at people doing other activities like going to dance clubs. You name it, we have measured it. If you go to dance clubs, people can typically be exposed in one evening to 10 times the exposure that they will get or be permitted to have in a workplace. Because it is cumulative, it adds up over time and can have a significant effect. So over a period of a life, it does have a significant effect on your hearing, and subsequent hearing loss.

**Dr Hogan:** The problems that we want to draw your attention to are that, in an environmental setting such as the noise coming out of a live event, just because it is not annoying to the neighbours does not mean there are no human health effects. We have 4½ million Australians with hearing loss. Noise is the predominant cause of hearing loss in Australia. As Dr Williams said, it is based particularly on cumulative exposures over time. So whilst the environmental law says that it is not a problem for the person across the road, liquor laws in the ACT do not actually specify noise exposures; they do in other jurisdictions. Again, it is to do with whether or not it is actually annoying the person across the street or the people in the apartment building next door. And we have occupational legislation which says that it should not be over the 85 dB exposure, whereas Dr Williams can cite a series of studies where the exposures are between 10 and 25 times the safe legal limit.

We were concerned when we saw some of the initial media about the findings of the committee because, whilst it may not be an environmental concern, it is a huge public health concern in terms of the longer term effects, and particularly in that the basic protective measures are not in place. There is no warning about the noise exposures at events. There is no provision of any personal protection at all. There are no spaces at these venues where you can actually be safe from noise, whether you are a worker or a person attending the venue.

I also have here—and I might be able to table this, please—several pages summarising the literature on the long-term health effects of hearing loss.

**THE CHAIR:** Thank you, Dr Hogan. We would be grateful to receive that.

**Dr Hogan:** And they are not trivial. We are looking at an all-cause mortality rate of 2.58, which means people with hearing loss die 2½ times faster than the average people in the community. We are seeing increased rates of heart disease, blood pressure, diabetes and depression and anxiety associated with hearing loss. So the burden of disease of hearing loss on the community is substantial and the main cause is eminently preventable. We just wanted to draw the committee's attention to those facts, and the fact that we have three pieces of legislation which do not talk to each other, and we would be grateful if, in your recommendations, you could have a look at how we might be able to harmonise these three approaches to noise in the ACT.

**THE CHAIR:** Thank you. Questions, members?

**MS LE COUTEUR:** You talked about the impacts of noise, even when they are not hitting the EPA limits. I think you were principally talking about the employees or the patrons of the venues. I was not quite sure if you were also alluding to people outside where the level of noise is less than the EPA allowable. Are you also saying there still could be a health impact on people in the surrounding residences? I was not quite sure if that was—

**Dr Williams:** On surrounding residences it would not be in terms of hearing loss; it would be in terms of quality of life and annoyance. The EPA tends to look at the annoyance that is caused to the local and surrounding communities or individuals, not their health effects in terms of the hearing loss. Being annoyed means other effects as

well, as has been raised—blood pressure and pulse rate and other disturbing effects on people. It is a different health effect. What I have been primarily talking about is the actual hearing loss itself.

**Dr Hogan:** It is an interesting question that you raise, though, because you can go to your local hardware store and buy a piece of machinery on which it says that the decibel rating of this is 70 dB, which is the level of exposure for the person over the fence next door. It is not actually the level of exposure that you are getting when using that piece of machinery. Does that make sense? Are you following?

**THE CHAIR:** I am following you, Dr Hogan. Is there not warning information on it for the person utilising the machinery that they should put on earmuffs?

**Dr Hogan:** No.

**Dr Williams:** No. Normally those warnings are an EPA warning. If you want to get up on Sunday morning and use your leaf blower or mow the lawn or whatever, it is measured, usually, 25 feet away or 27 metres. That is the noise annoyance you would be causing your neighbour. It is not the noise that you would be exposed to as a user of the machine.

**Dr Hogan:** We have got this food processor and it pumps out about 115 dB. I actually have to put my fingers in my ear when I am making a smoothie. It is producing something healthy for me to drink but it is damaging my hearing while I am making it.

**MR COE:** On personal responsibility, there are lots of products and services that we buy that have the potential to be harmful—tobacco, chocolate, fast food, alcohol or whatever. Is going to allow a music venue just another one of those products? Surely there is some responsibility. Do you think there is enough awareness that people have when they go to these venues that it is going to be noisy and that it is something—

**Dr Williams:** I can see your point. What we tend to find with surveys that we have done and that talk about looking at people's awareness is that they are aware in the short term that it is a problem. If you go to a loud party or something like that, the morning after the event you will have a ringing in your ears from tinnitus maybe. You will have a bit of a temporary threshold shift but it goes away. It fades off.

It is the same as the way we used to look at UV exposure, getting sunburnt. It would sting for a day or two, then it itches for a week and it goes away. What is the big deal? It is okay. You made your judgement on that perspective. What we have since learnt that continually getting that exposure gives you moderate problems 12 months down the track but 12, 15, 20 or 30 years down the track you end up with a more serious permanent problem.

It is a similar sort of effect with noise. It is also compounded by the fact that the effect that getting hearing loss is painless and bloodless. You do not know it is happening and there is no way of actually telling that it is happening. You find you lose your hearing very gradually. Thus people change their behaviour. They stop going to social events where they need to be able to hear people talking and there is a lot of background noise et cetera. They modify their behaviour.

Society modifies their behaviour towards that individual. They know their mate is a nice bloke and you can talk to him okay but he is a bit antisocial. He sits in the corner rather than joins in the conversation. He does not go out much. This puts limitations on where he will go with his spouse. He does not like going to parties or events that are too loud because he has to concentrate too hard. Things start to change, and very subtly, in ways that you do not immediately notice.

**Dr Hogan:** If I could respond, there are several points. You do raise an important issue. The difficulty is not dissimilar to cigarettes and alcohol. When I was a young man, the purpose of drinking was to get drunk. If you did not get very drunk and get very hung-over, then you had not achieved the cultural demands of the exercise. I think there is a certain parallel with music and smoking.

In each of these three instances, there is a time lapse between cause and effect usually. With the smoking, I do not usually get lung cancer today. I do not immediately get cirrhosis of the liver today if I drank too much last night. People, as we know, at the societal level have great difficulty linking cause and effect when there is a big gap between the two. The problem of course is that the costs to society, even though I enjoy the experience now et cetera, might be 20 or 30 years out. And they are quite substantial. As with cigarettes and alcohol, we have to have substantial campaigns for people to revalue this experience.

When I was a young person, the concept of going to a venue with no cigarettes was inconceivable. The concept that we would do “dry in July”—we have got three days to go—was inconceivable. But we are doing these substantial cultural shifts about behaviours which are pleasurable in themselves but dangerous. I think that is the disconnect that we are dealing with.

**MR COE:** On that cultural shift and with regard to public health and public policy, it is not dissimilar to the skin cancer campaigns. Is the answer awareness or is it legislation?

**Dr Williams:** I think the ultimate answer is in awareness, not legislation. You do not try and change behaviour just by legislative means. You actually make people aware that it is a problem and get them to modify behaviour. If you are going to work out in the garden for half an hour you do not have to completely cover up—you take appropriate measures for UV—compared to if you are going out there to work for eight hours or something like that. It is the same with exposure to noise. You have to moderate your activity. You can still enjoy it, but be aware that too much is not necessarily better than a moderate amount.

**MS LE COUTEUR:** In this context would you think that clubs and live music events should have a warning sign recommending only an hour’s exposure or something like that? Is that the sort of thing you are thinking of?

**Dr Williams:** Perhaps that is the way to go. One person we talked to is quite active in this area since he lost some of his hearing going to clubs and has very bad tinnitus. He is in his mid-20s. He said that he had grown up in a generation where, if something was bad for you, like smoking et cetera, there were warnings and you could choose by

an act of whatever to ignore those warnings, but you had been warned that it was a problem and there was that connect there. He said that, as far as he was concerned, with noise there was nothing there at all. The average person is just not aware that noise is a problem. This unawareness is one of the main problems.

**Dr Hogan:** Just going back to the other question, for quite some time Dr Williams and I have worked on the notion of people being aware of the noise dose. For example, in an environment or on a worksite people might protect themselves and be acting responsibly. But they take them off and then pick up their chainsaw for a quick 10-minute job and the dose they get from the chainsaw in that time actually exceeds the benefit of having the hearing protection on for the rest of the day. People need to have a concept of what their noise dose is in terms of being able to temper, if you like, their exposure. Perhaps the venues can give people an idea that they are going to get three months worth of noise dose in this one experience tonight and then people need to have an awareness of what the cure is to their exposure over time.

**THE CHAIR:** That does not address the staff issue though.

**Dr Hogan:** It certainly does not.

**Dr Williams:** The staff issue actually comes under the normal occupational health and safety regulations where an employer is obliged to do something to reduce people's exposure by following a code of practice. If you can, you minimise the noise exposure and then the last thing you rely on is personal protective equipment like earplugs or earmuffs. Employees are normally covered. It is the wilful aspect that was talked about where you are exposing yourself. Yes, you can do expose yourself, but you have got to be aware of the problem. Is your exposure really an informed consent? Do you really understand what the problem could be?

**Dr Hogan:** We saw a massive cultural change, for example, at airports. Twenty years ago you could count the number of people on a tarmac using hearing protection. Now when you look out of the aircraft window you can count the number not using hearing protection. We have seen a significant change in those kinds of industries where people took the view that you could not control exposure. Similarly, the legislation is there but it is not enforced.

**THE CHAIR:** You said at the beginning of your presentation, Dr Hogan, that you had some suggestions.

**Dr Hogan:** Yes. There is a range of things going forward, and Caroline has raised some of them. In terms of people's exposure, it is having the option of personal protective equipment when you go to a live event—so the option of earplugs. We are talking less than 50c a go. It is about noise awareness in terms of people's dose response. It is about having places in a venue where you can get away from the noise and have breaks from the noise. There are a number of options going forward, including the warning signs. It is not about being killjoys; it is about tempering how much we have. We talk now about what is a reasonable and safe number of alcoholic drinks to consume. It is the same kind of message: enjoy your music but consume it in safe doses.

**MS LE COUTEUR:** We have regulations on noise levels for outside venues. You talked about 85 dB A-weighted exposure over eight hours. Is that equivalent to saying that it is okay to be at 85 dB continuously in a venue? What do you think is an appropriate level for inside, which is where the patrons and staff are going to be, as distinct from outside?

**Dr Hogan:** Could I comment first of all? There will be a very technical response but the fact is that I did a study for the commonwealth earlier in the year into live music venues. You cannot have a conversation in these places. They are way beyond it. Everyone screams and you cannot have a conversation. There is something in our society that it has to be dark and noisy in order to have a good time. There is a cultural re-evaluation in terms of social activity.

In terms of a basic social activity, it is: can we have a communication in this place? Can we actually talk to each other? If we cannot, then our normal rule of thumb is that it is too loud. If you want to have your noise dose, it is over there. Previously, when we changed legislation around smoking, we created smoke-free spaces. There is no reason why, in some of these venues, you cannot have noise-free spaces. If you want to have your noise dose, it is over there. What is over here is actually the same material but it is not as loud as it is over there.

**Dr Williams:** It is the age-old problem that you do not want to be a killjoy. A lot of the music is oriented around it being very loud. It does not matter whether it is contemporary rock music or classical music, both can be just as loud. It is the way you consume music. You have got to moderate the consumption. You have to know that there could be a problem. You avoid it.

I would be very hesitant to say that you cannot turn the volume over such and such a volume. That is a bit much. I like listening to a lot of music that is quite loud but I am aware. I try to moderate exposure so that I am not going to end up with problems. It is raising that self-awareness to where it is internalised. Rather than having external forces making you do something, having the internalisation and doing it the safe way is the path I would rather go. I prefer an awareness-raising process, not a “do this or I’ll punish you” process.

**Dr Hogan:** We are also seeing, in the entertainment industry, businesses initiating their own noise controls, firstly, for their staff; secondly, for their patrons; and, thirdly, to avoid the consequences of liquor laws. In other jurisdictions, I have seen hospitality places where the manager has put a bar on the amount of noise coming out of the PA system so that they do not breach environmental laws. They have got acoustic treatments around the bars to protect the staff. In venues targeting some of us baby boomers, they have got acoustic treatments in the places themselves so that people can have a conversation.

Where people are seeing an initial market benefit, we are already seeing the cultural change occurring. There are other venues where they are not being protected from the range of exposures because they are targeting a different market, the point being that venues, when they chose to, are able to control the noise and see commercial benefit in it.

**MR COE:** Something that we might put into perspective is where the damage is actually coming from. How much do you think is from live music as opposed to MP3 players and iPods? It is easy to have a go and point at live venues; it is much harder to regulate or to point people in the right direction with regard to iPods. In terms of exposure, do you think the majority of damage is coming from live music?

**Dr Williams:** That is the subject of a research project we are doing at the moment. I have done a lot of work looking at MP3 players—personal stereo players, to be completely unbiased—and their use. I have done a lot of measurements just grabbing people off the street in Canberra, in the mall, Flinders Street station, on the steps of the Town Hall in Sydney and in the Brisbane mall—people coming out of very noisy background areas—off public transport. I ask them questions and measure the levels of their personal stereos. That sample is across a wide range of ages. These are basically people going to work or school—from 14 or 15 up to, I think the eldest is, people in their 50s to 60s.

I find that 25 per cent would be at risk if you go by the work and safety regulations. Of the whole lot, you would put about one or two per cent at high risk. When we hear noise leaking out from their earphones et cetera, it is really, in my opinion at the moment, a fairly modest exposure compared to the exposure you can get from going to a loud-noise, live-music venue.

The problem we have is that we measure noise in decibels. Our perception of noise is non-linear. For instance, for the average person to say, “Yes, that is twice as loud as that,” it has to be of the order of a 10 dB increase in volume, which is 10 times the amount of energy. It is like the seismic scale for measuring earthquakes. There is this logarithmic scale. It only sounds twice as loud but it has 10 times the amount of energy. If you work on a simple equal-energy concept of one unit of energy does this much damage therefore 10 units of energy does 10 times that damage, you can see it is a problem in our perceptions of it.

**Dr Hogan:** Turning your question around, from the public health perspective the question is: how would you know? Would you know that you are being affected by those personal stereos or from being at a live event? The most immediate indicator, of course, is the ringing in the ears that night or the next morning or not being able to hear as well the next day. They are clear signs you have suffered some temporary damage.

**THE CHAIR:** To clarify the temporary damage aspect, are you saying, Dr Williams, that the temporary damage experienced in the morning then goes on to become more permanent at a later stage?

**Dr Williams:** Hearing can recover. Initially you get a certain recovery but there must be some permanent damage. It is only very small but there will be some permanent damage that will accumulate. That is the risk. The best indicator we have, in fact, that things are going wrong is that of tinnitus after exposure. Your ears are ringing. If your ears are ringing, then something is wrong somewhere.

**Dr Hogan:** An analogy we use is that, if you walk across the lawn once, the grass falls over but it comes back. If you keep walking across the lawn, you wear a hole in

it. That is basically what noise does to your hearing. It carves a hole, particularly in your high-frequency receptors.

**THE CHAIR:** We have run out of time. However, if we do have other questions that arise from this session, we will certainly raise those with you. Thank you for the paper you have given us. We will send you a copy of the transcript. You will be able to check that. Thank you very much for appearing before us this afternoon.

**Dr Hogan:** Thank you for having us.

**HIGGINS, MR MARK**, General Manager, The Waldorf Apartments Canberra

**THE CHAIR:** Welcome to this public hearing of the live community events inquiry by the Standing Committee on Planning, Public Works and Territory and Municipal Services. I wanted to clarify something. In some of the correspondence I have seen from you, you have referred to us as an interdepartmental committee. We are actually a standing committee of the Legislative Assembly. It is very confusing with all of these different committees. I wanted to make sure that I clarified that. Have you read the buff card?

**Mr Higgins:** Yes.

**THE CHAIR:** Do you understand the implications of the privilege card?

**Mr Higgins:** Yes.

**THE CHAIR:** I am sure you will have some opening remarks that you would like to make. We will then go to questions.

**Mr Higgins:** We have written a couple of submissions to the committee. Our position basically will be, and always has been, that the Waldorf is a mix of permanent live-in owners, private tenants and, at the Waldorf itself, we run a serviced apartment hotel. Our guests frequently stay one night, two nights or three nights and then disappear. The hotel fabric has changed from predominantly all hotel guests to over 60 per cent live-in owners.

We have a good relationship, I believe, with Marc over here, from the Transit Bar. Every time that we have had complaints from people staying in the hotel, the apartments, we generally ring up the boys across the road and they try to curtail the noise.

With respect to our position—and there is a bit of noise in the media about this—we established the business first. We renovated or restored the YHA; we owned it. So we were definitely there first. I want to put that on the record. Our position is that if the guys want to do their music, that is fine. They can do what they want to do; I do not care. But it should not impact on our live-in owners, our guests or our tenants at the hotel. By and large, as I say, we have a pretty good relationship with the boys across the road. They do try, I think, to curtail the noise.

I suppose what happens is that, when you open the door—and I have spoken to Marc a number of times about this—we do get leakage from the bar out and up to the hotel rooms or to the residents' rooms. That is the situation. It is probably a matter of mitigating the noise factor and we will all live happily ever after.

**MS LE COUTEUR:** You said the Waldorf was there first. Can you go through the chronology? My memory is not good enough. I have been trying to picture it. The building where the Transit is has been there as long as the Waldorf.

**Mr Higgins:** That is right.

**MS LE COUTEUR:** I have been trying to picture what on earth was there before.

**Mr Higgins:** We, and when I say “we”, it was not Mark Higgins—I would not mind if it was but it is not—but it was our company which owned the building. It was an ACT administrative building for the government, primarily. It sat dormant. We opened the apartments in 1999. I suppose in about 2001 or 2002 they decided to revive the building and then the decision was made to build a backpacker establishment there, which we did. We opened that in about 2002. It could have been 2002 or 2003. It was around then; I cannot remember the exact date. It was in about late 2002 that we opened up the backpackers and we also put the bar downstairs. And I was the licensee of the bar.

**THE CHAIR:** Are we talking across—

**Mr Higgins:** The Transit Bar. I am a director of the company that owned that building.

**THE CHAIR:** Just to clarify the answer to Ms Le Couteur’s question, the apartments were installed in the building that used to be the government administrative building and it used to have Westpac downstairs. Is that right?

**Mr Higgins:** Which building are we talking about? The YHA or the Waldorf?

**THE CHAIR:** The Waldorf. When was the Waldorf actually—

**Mr Higgins:** We started building that in 1997 and we opened it in 1999.

**THE CHAIR:** So that was opened in 1999 as accommodation?

**Mr Higgins:** That is correct, yes. Just for the record, it is zoned as a residential building. That is why we have got live-in owners there.

**THE CHAIR:** And your same company owns the other building—

**Mr Higgins:** Owned.

**THE CHAIR:** on the other side of the road?

**Mr Higgins:** That is correct.

**THE CHAIR:** First of all it was turned into a backpackers venue?

**Mr Higgins:** First and last. We renovated it and built a backpacker establishment there.

**THE CHAIR:** Which is still—

**Mr Higgins:** Which is still operating. The YHA bought that, yes.

**THE CHAIR:** And then a bar was opened?

**Mr Higgins:** The whole complex was completed, including the bar and including the backpackers up top.

**THE CHAIR:** In about 2003?

**Mr Higgins:** 2002 or 2003, around about then, yes.

**THE CHAIR:** And that is the Transit Bar?

**Mr Higgins:** That is correct.

**MS LE COUTEUR:** Your company still owns the Transit?

**Mr Higgins:** No.

**MS LE COUTEUR:** You sold the backpackers or you sold the whole lot?

**Mr Higgins:** We sold the whole building.

**THE CHAIR:** When did you do that?

**Mr Higgins:** In 2005. We sold that not to the YHA but to another development company. They did some construction work there and then they onsold it to the YHA in about 2006 or whenever it was; I do not know. So there have been a few mums and dads who owned that building. We owned it; we sold it to a development company; we did all the work but they did a bit of construction work on it, which is probably completely irrelevant; then they sold it to the YHA.

**MS LE COUTEUR:** And the YHA owns both the Transit and the backpackers?

**Mr Higgins:** They are the landlords; that is correct.

**MR COE:** In terms of the problems that you experience with the noise, what proportion do you think comes from the music itself and what proportion would come from patrons either going to or from or who are not even related to the Transit?

**Mr Higgins:** I suppose in the summertime—and once again Marc has tried to mitigate the noise by putting tents out the front there, to have the people inside and to keep the noise constrained there. That worked quite well. In terms of that question exactly, we have not had a complaint for quite a while. We had a complaint I think from one of my live-in owners, and I sent that to Ms Porter, probably six or seven weeks ago. I suppose it is a catch-22.

When you have the bands, the attractions, you have the band noise, and then you have the traffic coming in and out of the premises. So when you have the honey there, the bees turn up. When it is just a normal trading night, it is not much of a problem.

**MS LE COUTEUR:** Is it also a seasonal problem? In summer, people would sit out more and go out more?

**Mr Higgins:** The difficulty from our perspective is that, when we get the complaints and we ring up the boys—I suppose you would have to say it is more likely in the summertime, warm, balmy nights, blah, blah, that sort of stuff—as I have stated quite clearly to you, the noise does come down and we try to manage it in that way. It is a matter, I believe, of corralling the noise inside all the time.

I noticed a few weeks ago that late one night when there was some event, they had the side door open, which was great, and, once the front door does not open, it tends to corral the noise inside. That is pretty good. That is good management for us. There is a little driveway around the building. They open a side door so that people enter and exit through that side door. That is pretty good.

**MR COE:** I do not want to discredit or cast any judgement on the complaints that are made by the Waldorf but do you think people in the Waldorf building have a higher tolerance or a lower tolerance to music in the CBD? I guess if you are living in the city, there is an expectation that there is going to be street noise and there is going to be—

**Mr Higgins:** If you live in the city and you think it is like living in Bega, you are dreaming. You are in the city. There are street blowers and garbage collections and you name it. You would have to put that question to them. I do not sleep there, thank God. I do not know. We get a response and we deal with it with the guys across the road. Whether their tolerance level is high, whether they are Catholic, Christian or Muslim, I would not have a clue.

**MR COE:** When units in the complex are sold, do you think there is an awareness or could it be put into the documents that it is in the city and it is potentially going to be noisy?

**Mr Higgins:** No. You know it is in the city when you turn up and see it. Other agents also sell apartments there too. I would not have a clue what they tell them. I have no idea. People ask me, “Is there noise?” I say, “Absolutely there is noise.” There are no worries about that. We had some real heartburn at the back of the building. That was a complete nightmare. That level of heartburn that we had, compared to what I have now, is a holiday.

**MR COE:** You are referring to Toast?

**Mr Higgins:** Yes. That was a complete nightmare. It is not like that at all. We have a good working relationship with the guys that run the bar. There are no problems, other than when there is an event on. As I have alluded to, they have got exit and entry strategies from the side. It is pretty positive. That does work.

The next step would be to soundproof the whole place if you are going to have a lot of loud music. If you are going to have loud music, I think that is their call or any person’s call for their business practice. They can do what they like. However, bearing in mind that they are going to do that, that is fine but it is also their responsibility to corral the music.

**MS LE COUTEUR:** Do you have any views as to what the sound levels in the city

should be? The EPA says that after 10 o'clock it is only 50 dB. Do you think that is reasonable?

**Mr Higgins:** I am the humble general manager. I am not an engineer in acoustic sound. I do not have a clue about that. I imagine if you were asleep and you were woken up by loud music or barking dogs, you do not care whether it is one decibel or five decibels; you are woken up. You have got no sense of humour. The reality is: can we cohabitate?

Obviously the government is promoting live-in owners in residences in the city, which is an honourable thing to do. That is great but it is very hard to say, "Come and live in the city," and then say, "We want entertainment." Do you know what I am saying? It is a difficult mix. It does not matter whether it is 50 dB or 20 dB. People's tolerance levels, obviously, vary. I could probably sleep through anything. Other people that I know cannot.

We had that argument with Toast about 50 or 20. You name it: we measured it; we did everything. We spent thousands of dollars. That was a nightmare. It was dancing around the point. The point, I reckon, is that if you have a residential building and you also have people trying to make a quid out of a nightclub, can they cohabitate? I think they can, yes, if certain undertakings are made in terms of corralling and quarantining that noise within the premises. That is the answer. That is the only answer.

**THE CHAIR:** Going on from what Mr Coe was just saying, some of the submissions refer to the traffic noise. The night we were walking around—I cannot remember what time it was that we were walking around but it was about midnight—we crossed the road where the Waldorf is on the corner. Some traffic was going past, with all the music in the cars going at the top level. It was very loud. They were going somewhere; they were not stopping. They were going around that corner and going on. Notwithstanding the live music issue, obviously there are other noises that wake people.

**Mr Higgins:** Of course there are. The only complaints we get, as a rule, are from our owners or the live-in people and their guests. Generally speaking, we do not get complaints about the traffic noise. No-one can control that. You are in the city. It is part and parcel of it, isn't it? You have to accept that. That is what it is. The only complaints we get, we have some control over by making a phone call to across the road, "Turn the music down," which we do.

**MS LE COUTEUR:** You never measure the decibel level; you ring up?

**Mr Higgins:** As I said, we have got a very good relationship—I think we do; you can ask them later—whereby I ring up and say, "Boys, we are getting a couple of complaints," and Mark, as a rule, turns it down.

**MS LE COUTEUR:** I understand from what you are saying that your thoughts are that, if there is any additional soundproofing to be done, it should be on the Transit side, not the Waldorf side?

**Mr Higgins:** Absolutely. There is no question about that. We are not making the

noise. If we get complaints about people snoring, then I would probably do something about it. I am not the one responsible for generating noise. I say to the guys, “Come on. That is not the go at all.” The owners would spit the dummy. You are living there and there is noise generated elsewhere. If I would say, “You wouldn’t mind chipping in to soundproof the room, would you?” you would be dirty as. You are not making the noise. I am not making the noise.

**MS LE COUTEUR:** I am not proposing a specific answer; I am just saying that there are two parts to it. It could be that the most efficient solution is in the Waldorf building rather than in the Transit building.

**Mr Higgins:** I obviously cannot see that.

**MS LE COUTEUR:** I know.

**Mr Higgins:** The boys can do what they like, have it as loud as they like, do what they want if they soundproof it. It should not impact our business.

**MS LE COUTEUR:** One of the problems with soundproofing at Transit is that customers leave at some point.

**Mr Higgins:** As I have mentioned, the boys have got that door on the side lane. I do not know how many doors there are till you get to that door. They are closed. By the time you close both ways and get in and get out, most of the noise has been quarantined inside. That is what we are saying. That is perfect. We are not against live music. Okay? I used to have long hair before I became bald. I used to love going to concerts. I have got no problem with this. All I am saying is this: we do not have the problem. We are part of the issue. Any soundproofing, which makes a lot of sense to me, should be at the bar.

**MS LE COUTEUR:** Do you have a view about the possibility of order of occupancy legislation?

**Mr Higgins:** No. I have read something about order of occupancy. Thank God, I am not a politician. I have read it. It made a bit of sense to me.

I will share a little story with you. A mate of mine bought a decent parcel of land recently. It is near a watering hole in Canberra. He is going to build some apartments there. I have been giving him a bit of advice. I said, “Obviously you are aware of your neighbours across the road. They should not have the problem. You have got the problem. You know that is there. The onus is on you to soundproof your new building. It should not be on the pub to get the pain because you are building that there.” I think that is fair and reasonable. It would be very unreasonable to go back to the pub and go, “Hey, mate, soundproof it.” They were there first. That makes perfect sense to me. It is the same relationship, I believe, here.

**THE CHAIR:** Thank you very much for coming in this afternoon. We will be sending you a copy of the transcript. You can check it. If members want to know anything more—

**Mr Higgins:** You can ring me up. I am 100 yards away. You can ring me any time you like.

**THE CHAIR:** The secretary will.

**Mr Higgins:** Thanks a lot.

**McRAE, MR NIGEL**, Events coordinator, Canberra Musicians Club

**THE CHAIR:** Thank you for coming before the Standing Committee on Planning, Public Works and Territory and Municipal Services on its inquiry into live community events. Have you had a chance to read the privileges card?

**Mr McRae:** I scanned it, I am sorry.

**THE CHAIR:** You are happy? You understand the implications?

**Mr McRae:** Yes.

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

**Mr McRae:** I have some prepared remarks. Thanks for inviting me to appear. The Canberra Musicians Club welcomes this inquiry into live community events and feels that it is vitally placed to offer guidance to our legislators on such matters. The club's priorities are local original and contemporary musicians and their audience. Its formation was a proactive response to the very real problems faced by such musicians in presenting their art.

We have worked in commercial venues, government-supported arts edifices and on our own in venues as diverse as suburban backyards, parks, halls for hire, riversides and mountain tops to maintain and hopefully strengthen the feeble heartbeat of Canberra's live music scene. We have built an audience, we have gathered the technical expertise, we have fostered the artists, we have provided public liability insurance and in many other ways we have generated a grassroots cultural phenomenon that is the envy of many of the touring artists that we have had the pleasure of hosting at our events.

In all of this the government, which apparently values such cultural activities, has often provided inadvertent, but nonetheless significant, barriers to our activities. We recognise that the government must look after the needs of the entire community and that balance is required between competing interests, but we feel that, with the current emphasis on urban infill, the survival of live music performance spaces in the city centres has been neglected to the point of virtual extinction. Without significant reform of current noise and building regulations, this extinction will move inevitably to a depressing finality.

I would like to address the specific issue of the demolition of McGregor hall, which the club has been using very successfully as a venue in town. It meets all of our needs and it is going to be gone in a month. The club recognises that arrangements with the ANU regarding the hall were finalised some years ago and we have accepted to a degree the inevitability of its demise, but we have been very disappointed with the government's responses to our protests about it, which have indicated a degree of ignorance regarding the nature of various facilities that are being offered as an alternative, and their complete lack of suitable alternatives for our activities with regard to locality, capacity, facilities et cetera. At this stage McGregor hall will soon be lost and there is no suitable replacement.

The club has made a list of specific recommendations in our submission, which I will not reiterate here, but I would like to end with one major recommendation. It is time for the ACT government to fully recognise the vital cultural contribution of the local original and contemporary music scene and provide a fully funded purpose-built centrally located community music performance centre to be run by and for our local musicians. I would suggest that the centenary of Canberra in 2013 presents us an ideal occasion for the opening of such a facility.

**MS LE COUTEUR:** Thank you, Mr McRae.

**THE CHAIR:** Questions, members?

**MS LE COUTEUR:** What do you think is going to happen in a month's time when McGregor hall falls? Of course, it will not fall immediately. It closes and then it falls. It is to be demolished.

**Mr McRae:** The club is very adaptable. We are looking at other facilities in the area. We will continue our activities. We have got our members to look after. We have got our artists to look after. We will just keep on doing what we are doing. When you find something that is almost perfect and it gets knocked down, it is very disappointing, but we will not stop.

**MR COE:** What other facilities has the government proposed?

**Mr McRae:** The Griffin Centre was proposed. It is totally unsuitable in that you have to get out of there by 10 o'clock. There is a four-hour hire window. I believe you cannot even take a PA in there, but if you could there would be an hour and a half of setting it up, an hour of playing and then pulling it down again. There is the Ainslie Arts Centre. We are pursuing the Ainslie Arts Centre through the Gorman House board. We have worked there in the past. They are just very finicky. They do not want anyone to eat or drink on their carpet and stuff like that. Various halls were proposed.

We have built our audience and most of our activities have been in the inner north. We like to have our events in the inner north. We like our people to be able to walk, ride or take a quick, cheap taxi ride to our events. We have been offered halls in other suburban areas outside the inner north, but we know that we would be wasting our time. We would be putting on shows there and we would not get the audience. After five years of developing an audience here, we are not going to go and do our activities somewhere else.

**MR COE:** This complex that you mentioned towards the end of your piece—do you know of any comparable places interstate?

**Mr McRae:** No. I think this would be quite a new and innovative thing for a government to do. The government supports all other art forms pretty well. There are publicly funded galleries. There are publicly funded theatres. It just seems like contemporary music is seen as something that can survive on its own in spaces that are run by private enterprise that may not have music as the core of their business. It is just some sort of adjunct. They do not do it well. It does not present local music well.

Although we have been able to work quite well with some of the venues around town, we really feel like it needs to be done in a more professional, coordinated, artistic and cultural method and run by people who know what they are doing. That is what we have always tried to do. We struggle a lot of the time because of the lack of facilities or whatever. But in every other respect we can present music well and we have built an audience that expects quality presentations.

**THE CHAIR:** Have you any idea of the size of the particular venue that you envisage? What would you see would be the use of it, other than the particular times when there are events such as you run or your members run? What other functions could it have?

**Mr McRae:** I can imagine a facility that would have probably two or three performance spaces, one of them with a capacity of 300 to 400 and a smaller one with maybe 100 to 150. They could run pretty much every night as performance spaces for local and touring bands. You could also have facilities for rehearsal space, which is a real problem at the moment in Canberra—finding people rehearsal space. It could be used for that in the daytime and also for tuition for musicians and so on, as well as meeting spaces. We would be happy to team up with the dance groups that are also getting booted out of the hall. They could hire it during the day or early evenings for dance classes and things like that. You build us this place and it will very quickly fill up with people using it all the time for these sorts of activities.

**MS LE COUTEUR:** I imagine this sort of space is going to be cost sensitive. Are there other venues around which, if money was no object, you could use? How price sensitive is it?

**Mr McRae:** It would help if it was subsidised to a degree. There are other venues, like Albert Hall.

**MS LE COUTEUR:** Yes, that comes to mind. It is not quite in the—

**Mr McRae:** There are things that you can use for a gala event, but it is just the regular local band nights and things like that. It is not really financially viable to use very expensive halls.

**MS LE COUTEUR:** Some of the spaces behind the Canberra Theatre, the smaller venues that I have seen various performances in—the Courtyard theatre and places like that—do not have stages. You are thinking of operas—

**Mr McRae:** We are doing a thorough evaluation of all of the available spaces around town at the moment. We have been doing that for years, but suddenly it is more pressing.

**THE CHAIR:** In terms of the question that is before us, which is more or less about how live music and people living near a venue that has live music live together, virtually, do you have any comments to make or any feedback that you have from people who live near the venue that you are currently utilising about noise that has been emanating from that?

**Mr McRae:** I would like to say, with reference to the first speakers here, that the club is very aware of noise issues, not just with neighbours but with our musicians and our audiences. We do not run glaringly loud gigs. We do not want to damage people's ears. That works for our patrons but it also works for our neighbours. We can run amplified gigs in a suburban backyard and very seldom get any complaints, because we do not really believe in loud music. It is not necessary. We use amplification just so that you can get a balance with all the instruments. If you have drums and a guitar, you need to lift the guitar up to the level of the drums, but the drummer does not have to whack the drums and you do not have to lift it any higher than that balance.

We have had very few problems with noise issues with neighbours because of that. Obviously, there are some types of music that we would still support where a certain amount of loudness seems to be a critical component of the artistic expression. While I do not agree with it myself, I would like to support it. So if we had the perfect venue, it would be able to contain most of the noise within it and then we would probably be wanting to hand out earplugs to the patrons as well.

**MS LE COUTEUR:** One of the things that has been suggested is the idea of a music precinct so that noise would not matter too much. Do you think that would work, particularly given your comments—

**Mr McRae:** I think it is probably too late. Where is this going to go? Apartments are filling up every available spot at the moment. Make it now if you are going to do it. Make one in Braddon, make one in Dickson—

**MS LE COUTEUR:** Fyshwick?

**Mr McRae:** Fyshwick is hopeless.

**MS LE COUTEUR:** No-one to complain.

**Mr McRae:** If you have late-night bus services going there until three or four in the morning, maybe you could do it. But there is the issue of people's safety—young ladies trying to leave a venue and walking through Fyshwick to get to the bus stop. It is intimidating. I do not know; maybe the horse has bolted. If you are going to do it, do it now, while there still might be some free spaces somewhere.

**MR COE:** With the tough times that the places you listed have experienced, say the Asylum, the Terrace Bar, the Gypsy Bar, Toast, Trinity Block Party and then, in addition to that, Transit and the George Harcourt Inn, what is the tangible impact that this has had on the live music scene, from a musician's point of view?

**Mr McRae:** At this stage there are now two venues in the city; there used to be five or six. If you are playing in a band in this town, you can play in those pubs once every few months. They want to have different music going through their pub, so you are looking at playing four gigs a year. That is not good for your artistic development. It is not good for building you an audience. There is just the constant drain of our best musicians who say, "This is hopeless," and then leave.

**THE CHAIR:** They are moving interstate; is that what you are saying?

**Mr McRae:** Yes. Every year, a proportion of the cream of our best talent goes to Melbourne at the moment, because Melbourne has 300 venues.

**MR COE:** To an extent, though, is that going to happen anyway, when you have a city of 350,000 people and you have Melbourne being seen to be a cultural capital, or is it just the rate at which people are going?

**Mr McRae:** It is the rate. Let's slow it down. There are plenty of people who would stay here if it was viable enough, whatever that point is for them. Let us just raise the viability and we will keep some of them.

**MR COE:** What about the actual income that musicians get for each gig? Has that changed much since the closure of these venues? If there is suddenly an excess supply of musicians and there is only a handful of venues, has the price actually gone down or has it stayed pretty steady?

**Mr McRae:** The musicians probably get paid less now in actual dollars than they did in the 80s. There have been a lot of changes since then. Random breath testing was probably a big factor.

**MR COE:** An unintended consequence.

**Mr McRae:** People drink less and are less prepared to travel around to go to see bands. Our philosophy has been that we need to build the audience. If you are running a pub and you put on a band and the place is packed out and you are making money, you are going to be more inclined to give more of that money to the artists. We felt that if we were in a descending cycle, we had to break that nexus, and the thing to do was to build the audience. We have built the audience; now we need to build the venues.

**MS LE COUTEUR:** Talking about that, if there was public transport provided, and you mentioned Dickson as a potential new music precinct, do you think that the audience would move?

**Mr McRae:** Dickson is fine. It is reachable within the inner north. One of the halls we were offered was in Cook. I do not even know if it is suitable as a venue, but it is just that little bit further away. That is a long ride on a bike on a cold night. Sure, if we could have an arrangement with ACTION and say, "We're putting on a gig on Saturday night at a certain hall; will you run bus services out there until 3 am?" it might be viable.

**MS LE COUTEUR:** Surely there must be live music patrons who do not live in the inner north?

**Mr McRae:** There are. A proportion of our members live in these other centres and come in to our gigs, but the vast majority of our audience does live in the inner north. As an organisation, our moral is that we have to conquer this town first, and that would be fantastic. And if we are running really viably here then we can think about

moving to another town. So we might start with Belconnen after that. But these things do not just develop overnight. I have been doing this for 10 years.

**THE CHAIR:** On that question of other places, where predominantly does your audience come from? Are they young people from the university, for instance, from ANU? I am sure you would have some from UC?

**Mr McRae:** Some; a proportion.

**THE CHAIR:** The University of Canberra. So those young people from UC would conceivably be happy to go to a venue that is over—

**Mr McRae:** I am sure they would.

**THE CHAIR:** near Belconnen.

**Mr McRae:** But it might be 15 of them at this stage. That does not make a viable gig—not yet.

**THE CHAIR:** So one presumes that the university itself could perhaps provide a venue, in the ANU? Is it able to provide another venue on site?

**Mr McRae:** The ANU has the ANU Bar, which operates as a venue. It does not work for us, just because of the conditions, the way they want to hire it out.

**THE CHAIR:** Is that the same for the University of Canberra?

**Mr McRae:** The unions change every year. Every year they start out with a brand new idea and think, “Oh, this could be good,” but it seldom is. If you go back to the 80s, when uni bars used to be thriving, they were good venues. Unfortunately, perhaps to do with the commercialisation of things, the killing of VSU and stuff like that, they just have not had any momentum or they are not skilfully run and they do not understand what they are doing. We just have not been able to work with them effectively.

**MR COE:** You mentioned that there might be, say, 15 at UC. How many do you currently get or did you get at the McGregor hall concerts?

**Mr McRae:** We are averaging between 100 and 300 people now.

**MS LE COUTEUR:** You are generally having a couple of events a week?

**Mr McRae:** Sometimes. We have been trying to do a few gigs in a row because you bring in the gear on Friday and you take it out on Sunday, instead of just bringing it in and out for one gig. It is probably one gig a week, on average. We are using it very frequently. Because they are volunteers, we are limited by how much we can stretch that resource.

**MR COE:** If I may separate government support from government hindrances in terms of the regulations and things which may restrict you in subsidising live music,

has the level of subsidy—the level of public funds going either directly or indirectly into live music—changed over the last 20 or 30 years?

**Mr McRae:** What subsidy?

**MR COE:** That is what I wanted to establish.

**Mr McRae:** There is a little bit of training that goes on and CIT's music industry centre is good. We utilise their technical people when they come out—the sound guys and so on. That is useful. Also, artsACT funds about four or five bands to produce a CD—\$10,000 or something. That is all I am aware of. If there is something else, let me know.

**MR COE:** Okay. That is what I wanted to establish. If there has been a demise in live music and a demise in the conditions for musicians in Canberra when the amount of public funds has remained constant then it seems to me that spending more money is not necessarily going to fix it. What is going to fix it is making sure that there is the right regulatory system and the right environment to support it. With that in mind, because I am always cautious about spending public money, it seems that some sort of precinct or place where you can operate independently would be the best way forward, in terms of the taxpayer at least.

**Mr McRae:** That is one of our recommendations. I am still going for my palace of music.

**MS LE COUTEUR:** One of the things you supported in your submission was order of occupancy. You were here earlier when we had a discussion as to whether Waldorf or Transit was there first.

**Mr McRae:** Yes. I actually thought Toast was there before they renovated the Waldorf, but I am not sure.

**MS LE COUTEUR:** We should have specifically asked them about Toast.

**Mr McRae:** I wanted to. I did not know if you could ask a question.

**MS LE COUTEUR:** He even mentioned Toast. I really was not thinking of it. I suspect Toast was there first. Regardless of that particular instance, given the quantity of residential property around Canberra already, do you think this would solve any problems if we had order of occupancy?

**Mr McRae:** There are only two venues now in Civic. It is going to help them, but it is not going to help any new ones that start.

**MS LE COUTEUR:** I suppose my question is whether it would inhibit new ones more than it would help the existing ones, because it could end up meaning that—

**Mr McRae:** All the apartments are saying, “We were here first.”

**MS LE COUTEUR:** Yes. All the apartments will say: “We were here first. Therefore,

you cannot do anything.” That is the order of occupancy. It is a very conservative thing. It tends to leave things how they were.

**Mr McRae:** Yes. It would have been good if it had been preserving what was here eight or nine years ago.

**MS LE COUTEUR:** That is obviously not going to happen.

**Mr McRae:** I think they should still do it. There are other venues in the other city centres that could be encroached upon—the Pot Belly in Belconnen, the Basement and so on.

**THE CHAIR:** Any more questions?

**MS LE COUTEUR:** I will go through some of the actions, if that is okay. One of the things you suggested was that, where we have existing problems, residential developers should be required to soundproof their buildings.

**Mr McRae:** Yes, particularly with the Waldorf, which was built as an office building. Then they did a renovation but with no thought about their residents and the amenity for them. He says, “Oh, it’s just recent soundproofing.” You bloody should have done that first.

**MS LE COUTEUR:** I guess you would support, at the very least, a requirement that buildings which are in town centres or anywhere close to possible noise-producing venues have external soundproofing.

**Mr McRae:** If there are issues with venues it might be easier if, instead of soundproofing everything else around them, the government had some sort of support for them to soundproof themselves. A consultant would be able to come in and tell them what is required, at a minimal cost, and there would be a bit of a subsidy for whatever is required. That is another way of doing it.

**MS LE COUTEUR:** Do you think there should be any changes to the noise regulations? We have got time limits. It is only up to 10 pm on Saturdays that—

**Mr McRae:** Yes, it is crazy.

**MS LE COUTEUR:** Okay. That was pretty much the question.

**Mr McRae:** I think David Caffery in his submission mentioned other cities. Instead of just having a limit of whatever dBs—and it is 50 after 10 in the city. A normal city without any live music or whatever makes more noise than that. Cars, people’s footsteps and talking and stuff—the general hubbub of the city is above that. In other cities they say, “It is noise above the background noise.” So if a city is generally making 60 dBs and you are creating 10 dBs above that, it seems quite sensible to me. It is not only the level of noise; it is the type of noise. I think that we get away with a lot of stuff. We could be a bit loud for our direct neighbours and so on, but it is actually nice noise and they appreciate it.

**MS LE COUTEUR:** Sure. Have you been involved in—I think it was an independent live music forum of some sort, or an interdepartmental committee—

**Mr McRae:** I went along to one meeting—

**MR COE:** Was that constructive?

**Mr McRae:** Yes. It was good to get all of those people together. They are talking about making a live music forum or something where all the people who are interested in that sort of stuff can get together and regularly consult.

**MS LE COUTEUR:** Do you think that will be useful?

**Mr McRae:** It could be.

**MR COE:** Have you seen any outcomes yet?

**Mr McRae:** Not yet.

**THE CHAIR:** Thank you very much for coming to appear before us this afternoon, Mr McRae. You will get a copy of the transcript so you can check it for accuracy. You may want to clarify something. We will certainly be in touch with you. Thank you for coming this afternoon.

**Mr McRae:** It has been a pleasure, thank you.

**Meeting adjourned from 3.18 to 3.28 pm.**

**FANNER, MR STEVEN**, General Manager, Australian Hotels Association (ACT Branch)

**THE CHAIR:** Good afternoon, Mr Fanner. Thank you very much for coming along to the Standing Committee on Planning, Public Works and Territory and Municipal Services inquiry into live community events. Also, thank you for the submission that we have received.

**Mr Fanner:** Thanks for your consideration of it, and thanks for having me.

**THE CHAIR:** There is a buff card there, the privilege statement. Could you read that and indicate that you understand its implications?

**Mr Fanner:** I understand.

**THE CHAIR:** You may have some opening remarks that you wish to make, and then we will go to questions.

**Mr Fanner:** I do have some opening remarks. On behalf of the members of the AHA, I would like to thank the committee for providing the opportunity to pursue reform on this important issue. The AHA has taken a keen interest in this inquiry and commends the committee for its draft report, which we believe provides a sound basis for sensible reform of the territory's planning and licensing laws.

The Australian Hotels Association is a federally registered organisation of employers in the liquor and hospitality industry, with more than 5,000 members throughout Australia, with branches operating in every state and territory as well as a Canberra-based national office. The ACT branch of the AHA, which I represent, has a strong membership, including the majority of Canberra's accommodation hotels, pubs, bars, nightclubs and restaurants. While some of our members are part of globally recognisable companies, the majority are owner-operated small businesses. Every AHA member is affected by issues relating to amplified music, while many others play host to live music events of varying size and frequency.

For the purposes of this inquiry, the AHA considers that both amplified recorded music and live music are live community events. We note that many of the submissions made to the committee relate to specific noise-related disputes involving individual businesses going about their normal day-to-day operations. So it is clear that the community interest in this issue goes beyond merely concerts, festivals and the like.

Our interest in this inquiry is based around the threat posed to our members by the inadequate protections provided under current ACT law. We are very keen to see order of occupancy principles adopted into planning and licensing legislation. This will help to provide a level, consistent playing field on which to make decisions on noise disputes.

The problem our members face, and fear, is simple and best explained with a fictional but plausible scenario. Imagine that a residential development occurs in close proximity to a shopping centre, and this shopping centre includes a pub, and this pub

is known for offering live music as entertainment for its patrons on Friday nights. Currently, any resident of this new development may make a noise complaint against the pub that is likely to result in the pub being forced to curtail its trade in order to appease the newcomer resident. The AHA is aware of a number of real incidents involving our members in which an established hospitality venue faces the prospect of business failure through no fault of its own.

On 28 May, I was pleased that each member of the committee agreed to join me on a tour of live music venues late on a Friday night. Our submission to the inquiry—and my appearance today, I hope—will support the testimonies provided by our members at the George Harcourt Inn, the Lighthouse Bar, Suburban and the Transit Bar.

The AHA also supports the recommendations made in the committee's draft report. We suggest that one further recommendation be included, to require developers of residential accommodation located near hospitality venues or major business precincts to provide appropriate soundproofing and to notify purchasers and occupants of order of occupancy provisions. We feel this would help to prevent disputes from arising by ensuring that people moving into these developments do so in full knowledge of the rights of existing commercial businesses to continue their normal operations.

There is no doubt that excessive noise significantly reduces the amenity of an area, and particularly a residential area. It is sensible that the government maintains noise restrictions to ensure all citizens are able to live in relative comfort in their own homes and workplaces, but the laws must also take a common-sense approach, and common sense tells you that there is no fairness in a system that allows a newcomer to effectively shut down an established business which is merely trying to carry on its normal operations as it always has. It must be acknowledged that residents in newly constructed residential developments are fully aware of the proximity of hospitality venues to their homes. In many cases, it is this proximity to local bars, restaurants and shops that is promoted by developers as a key hook in the sales process.

I have some examples of this in practice which I can table for the committee's information and interest. Being close to hospitality precincts creates a buzz that many people find attractive, but there needs to be greater protection for business owners from the significant costs and risks arising from noise complaints. The principle of "I was here first" may be overly simplistic but it should form the basis for a measured response to a growing concern for our industry. Thanks for hearing me out on that, and I am happy to take any questions. I table the examples that I spoke of.

**THE CHAIR:** Thank you very much; we are very grateful for that.

**MS LE COUTEUR:** I would like to talk a bit more about order of occupancy, which is a very important and interesting idea and an inherently conservative idea, from what you are saying. What you have got now is what you want. Do you think, from the live music point of view or a pub's point of view, it is great for existing venues because their rights are protected? Could it also stop new venues because, basically, if there is any residential around, a new venue is not going to be able to start? Have you looked at, if we have order of occupancy, how we encourage new venues? Most of the people who have come to see us would say we need more venues rather than fewer venues.

**Mr Fanner:** There are two parts to what you are saying there. In terms of order of occupancy, it is important that, where you have a situation where there is an established business and there are developments around that business, that business has some protection against changes to its business model being imposed on it through no change in its own practices. At the same time, there is probably a separate issue where, if you are talking about new developments that are going to occur within a shopping precinct, there may be some merit in the government looking into zoning of commercial precincts separate to residential areas.

Obviously, you do not want a loud business of any sort to pop up right in the middle of a residential area. But if something is an established shopping or commercial precinct, the current noise restrictions allow commercial areas a higher level of noise emissions than occur in a residential area anyway. I think that is a separate issue from order of occupancy in terms of the issues that our members are faced with where there has been new residential development nearby.

**MS LE COUTEUR:** It sounds like you are not very much in favour of mixed development, residential and commercial, in the same area.

**Mr Fanner:** Not at all. If I have given that impression, I did not mean to. I just think it is important, going forward, that people who purchase or who move into residential accommodation in mixed development areas are aware that there are businesses as part of that development which have a right to exist; that they are aware of the presence of these businesses when they make their decision to move in; and that, as long as that business continues to operate within the guidelines set out under the EPA laws, it should not be subject to any onerous additional requirements as a result of any noise complaint.

**MS LE COUTEUR:** You said people should be wary if there was an existing business. What if there was not an existing business? What if someone wants to open a new venue? That is really what I am asking. We now have the ability to mix commercial and residential. If the residential is there before the loud-music producing venue, there is the possibility of this happening. A restaurant might be turned into a much noisier nightclub venue. It does happen that there could be a desire to change the commercial use. I am not sure whether the concept of order of occupancy also stops new venues. It is great for old venues.

**Mr Fanner:** There are two things I might say in response to that. Firstly, the AHA represents existing venues, not venues that are going to be built in the future. Secondly, if there is a change of use, obviously that is going to be treated in a different fashion to an existing business that is facing new operating conditions. If a restaurant, for example, wants to become a bar or a nightclub and increase its music output, clearly that has to be taken into account before approval is given to either change the liquor licence or any other planning considerations are made. I think that satisfies your question. It is just a matter that, if there is a change in use, that has to be taken into account as well.

Our desire is to see order of occupancy principles generally relate to existing businesses which are continuing their normal operations and which face changes

being imposed upon them. I think any business which wants to change its business model clearly needs to consider the impact that it is going to have on the surrounding area. We have an issue with that being part of the process.

**MR COE:** Order of occupancy rules tend to work in conjunction with zoning, so it is not really a restriction on new buildings; it is just acknowledging the property rights of the zone and the existing uses. There is no reason why new venues cannot open; they have just got to be within existing zoning, such that it does not change. On a different issue, with regard to transportation, how much of a problem are transport issues, whether it be taxis or buses, in Canberra, and how much of it is a problem with regard to the growth and development of existing businesses and perhaps future ones as well?

**Mr Fanner:** That is a good question. It is probably not one I was expecting to get so early on. It is a huge problem. Canberra's public transport system is almost non-existent, particularly late at night, when many of our members are doing their best business. We have been big supporters of the ACTION Nightrider bus service when it runs throughout the summer months. It runs for about a month, from December, in the lead-up to the Christmas-new year period. It is a fantastic service that helps to get thousands of people out of the city and to the town centres quickly, reducing the risk of antisocial behaviour in the city. It is well patronised. We would like to see it offered throughout the year, and we would be prepared to look at ways that this could be made viable, whether that is through changing the fare structure or in some other way.

Clearly, we do not have enough taxis to allow everyone just to use that mode of transport. The long lines you see, particularly in the summer months, in Civic between 2 am and 4 am create a real problem for licensees in the centre of the city. Clearly, the fact that it is so hard for people to get around, particularly late at night, probably makes it harder for people considering opening a venue or trading late in outer areas to offer entertainment late at night, because their patrons are going to find it hard to get somewhere else or get home.

**THE CHAIR:** In terms of this inquiry, the issue is the noise that is created by people being out on the street, waiting to go home and being unable to move from that place to get home because there is no transport. Would you suggest that that is the issue?

**Mr Fanner:** Certainly, the feedback you hear in relation to noise coming from venues is not so much noise coming from music but noise coming from people. They are not always people who are patrons of the venue. They can be people who are using the area as a thoroughfare to get somewhere else. They can be people who have been in another venue and are waiting for a bus or a taxi. They can be people who have gone out to have a cigarette. Now that we have the new smoking laws, they cannot do that inside anymore. So amplified music is not the only creator of noise. Often, our members are finding that the noise that is created by people who just happen to be in the nearby area is attributed to them, which is obviously concerning because it creates a risk that complaints are made and conditions might be imposed on them.

**MS LE COUTEUR:** You mentioned the smoking legislation, which of course forces smokers to go outside, as being one of your problems. Have you got any suggestions

for reducing the problems from that?

**Mr Fanner:** Certainly we are not saying the smoking ban should be reversed. I think we have moved on from that. People now expect a smoke-free environment inside.

The introduction of the next round of smoking restrictions, which will take place in December this year, is going to make it even harder for venues to control people in their outdoor areas. It will mean, for a lot of venues, unless they put in place a designated outdoor smoking area, that their patrons will not be able to smoke anywhere in their outdoor area. They will have to go to a public area, which means standing on a footpath, standing in an area where the licensee cannot control or influence their behaviour, which has some implications for noise. At the moment, if you have a patron in your outdoor area, they are shouting and it is late at night and you are in close proximity to houses, you can tell that person to keep it down and if they do not they will not be allowed back in. If that person is not on your premises, you have no control over how they behave.

The concern that we have, as an industry, is that our members will still be held responsible for noise in that situation. Whether it is fair or not, people are going to blame the venue for creating that noise. But we are actually losing the ability to control people in some situations that are going to be created. It is going to be a problem. It is the law now. The Assembly has passed it. When 1 December comes and those laws come into effect, it is going to be an increased problem for a lot of our members who have outdoor areas or who opt to enter into residential development.

**MS LE COUTEUR:** We have talked a few times about music precincts. Do you think that would be a good idea? If you do, have you any suggestions as to where?

**Mr Fanner:** I know the committee has been to Brisbane and seen Fortitude Valley. That is certainly the most prominent example of a planned area where an entertainment precinct has been created and that has enabled the development of a real district for live music and hospitality venues, which really reduces any confusion. The possibility for dispute is reduced there because there is a clear understanding of what that area is meant to accommodate.

There is probably some merit to exploring that in Canberra. Civic is obviously the prime hospitality district. It is also our CBD. It makes sense in that, if there is an expectation that it is going to happen, it deals with a lot of our business activity anyway. There are other considerations around that. There is also a lot of existing residential development and accommodation, hotels, for short-term stays in the city already.

I am not entirely certain whether zoning the entire city as an entertainment precinct is appropriate but there may be some parts within the city where there is a concentration of licensed premises, for example, that might be considered. That is not a solution that helps everybody, though. As you saw when we went on our tour of live music venues back in May, a lot of the venues that face problems with current laws are not in the centre of the city and are not necessarily even in a precinct.

The George Harcourt Inn, for 30 years, was out there by itself, with nothing around it.

It is only in recent times that there has been housing development and, suddenly, they have been told to keep it down. I do not think you could zone that area an entertainment precinct. Certainly some protection for businesses like that from new development would be good.

**MR COE:** With regard to the number of venues that currently facilitate live music—obviously there are not that many—how much of that is because of regulations or because of restrictions on their environment and how much is just a market decision that people do not want to listen to live music in particular venues?

**Mr Fanner:** That is a good question. The circumstances will differ from venue to venue, but certainly the red tape and the compliance considerations of putting on live music are a major factor in any event that is considering putting it on. There is consideration about the noise that might be created, obviously, and the impact that might have on neighbours. That is one aspect of it. The cost of putting it on is a major part of that as well. You have got to not only make your money back in terms of increased trade but also create a margin on that as well to pay for the increased outlay. There is a business consideration to be made.

There are also implications for your insurance, businesswise. There is consideration of the risk profile that it might give you under liquor licensing and how your venue might be perceived to be operating. We are aware that in other states live music venues are automatically considered high risk, even in cases where you might have a violin player in the corner. There are a number of challenges to live music and certainly there are some financial ones. There is the red tape aspect as well. When you weigh all that up, the unfortunate outcome has been that we have seen a reduction in the number of venues that offer live music. Those that do still do so very successfully because they are now a niche provider in the market. You have probably heard from some of those. Even they find it hard. Certainly, there are a number of challenges. We do not see the same amount of live music that we used to in pubs in Canberra.

**MS LE COUTEUR:** Do your members find it a lot harder to do live music than recorded music, for the same noise level, as it were? What are the additional issues?

**Mr Fanner:** That sounds like a more operational question than one I might be able to handle.

**MS LE COUTEUR:** Or regulatory issues?

**Mr Fanner:** Generally—and I stand to be corrected—I do not think there is any significant difference in noise considerations. You might find that recorded music may even be more problematic in terms of noise because there is often a large base component which it is harder to protect against than other sorts of noise.

Obviously, the other concern is the cost of playing music from a licensing aspect. I am not referring to liquor licensing here but the cost of a music licence. In terms of live music, I think these costs have been fairly stable. But in terms of playing recorded music, certain venues have seen enormous increases in their licence fees from the collecting societies over the last two to three years. That has forced several of our members to re-examine their business models, particularly those that operate as

nightclubs. They saw a 3,000 per cent increase in their music licensing fees, which suddenly made the music licence the most expensive part of doing business.

As a result of that, if you are a licensee you have got to start looking at the way you run your business to try and avoid those sorts of costs. Even our restaurant members now find that there is an application to increase the cost of their licence for playing background music, which you can hardly hear a lot of the time. It will now cost probably as much as they are paying the chefs in the kitchen each year. It is not just about the cost of paying the musicians, the cost of insurance and dealing with the red tape. In playing any music there is an additional cost which is very difficult to justify unless you are really promoting yourself as a live music venue.

**THE CHAIR:** Any more questions?

**MR COE:** No, thank you.

**MS LE COUTEUR:** Do you have any views on whether the 50 dB noise limit in the town centres is appropriate?

**Mr Fanner:** I do not, I am sorry. I am aware, vaguely, that there different considerations for town centres as opposed to quieter areas. I understand that you can emit noise at a higher level in Civic, for example, than you can in the middle of the suburbs. I think that is appropriate. As to whether or not the current limits are appropriate, you are possibly best talking to APRA or someone with noise measuring equipment. I am not aware of any complaints or suggestions otherwise.

**MS LE COUTEUR:** My final question is this: I understand the government is having some industry consultation. Are you involved in that and has it been useful?

**Mr Fanner:** I am sorry, can you ask the question again?

**MS LE COUTEUR:** I am sorry, I have been having lots of problems with my voice. I understand the government has been running some sort of industry consultation forum. My question would be: are you part of this and, if so, is it useful to you?

**Mr Fanner:** This would be the first I have heard of it.

**MS LE COUTEUR:** Okay.

**Mr Fanner:** I am more than happy to participate and pass information on to our members, but I am not aware of any forum on live music events that has come up.

**THE CHAIR:** Thank you very much, Mr Fanner, for appearing before us this afternoon. We will be giving you a copy of the transcript. If you find any inaccuracies in what you think you have said, please let us know. If we have any further questions we will get them to you as soon as we possibly can. I thank you for your submission and for coming before us this afternoon.

**The committee adjourned at 3.55 pm.**