



**A submission to the ACT Legislative Assembly Standing Committee on Planning,
Public Works and Municipal Services – Inquiry into live community events**

From

Mr. Ryan Phillips, Director – Kicks Entertainment

Dear Members of the Standing Committee,

I submit the following to the 'Inquiry into Live Community Events' undertaken by the legislative assembly through the Standing Committee on Planning, Public Works and Territory and Municipal Services. Although my submission comes at a late hour I hope it is considered when debating the future of live community events in the ACT. The 'Inquiry into Live Community Events' is a vitally important inquiry to ensure the survival of many businesses, events and community organisations that enhance our Nation's Capital cultural soul. This inquiry's goal should be to protect the rights of residents as much as protect the fragile live music and late night entertainment sector.

There are two vital ways in which legislation must change for these two sectors of the community to co-exist.

1. The Territory Plan must address residential properties, how, where and why they are built in commercial zones, with the intention to uphold the codes objectives of creating vibrant city zones.
2. Acceptable noise levels in commercial zones must be raised to an appropriate level to allow for these zones to flourish.

I am the Director of Kicks Entertainment (Kicks), a locally owned and operated business dedicated to delivering safe and professional live music concerts, festivals and special events in the ACT. Responsible for many of Canberra's biggest live music events, Kicks strives to provide young Canberrans with the opportunity to attend quality music festivals and concerts who would otherwise need to travel outside the ACT to attend. I am also a member of the musical directions team at Academy Nightclub in the city and have worked as the general manager of Trinity in Dickson, as well as many great restaurants and bars throughout Europe. I am involved in the local entertainment, music and hospitality industries and am deeply concerned with the way in which ACT town planning is effecting these industries and shaping our city.

Canberras high residential property demand has resulted in areas previously zoned against residential development (Braddon, Dickson and Civic streets) being readdressed under the new Territory Plan to allow for residential housing. As Canberra land becomes more and more scarce, we will continue to see Canberra residents living closer to businesses that thrive on late night trade.



This inquiry is an extremely important opportunity to decide what kind of future we want for Canberra and what kind of city we want to become. Canberrans enjoy the ease of designed arterial roads, space on larger blocks and many other benefits that come from living in a planned city. If we are to continue to grow, attract more interstate visitors and provide cultural and entertaining opportunities for our citizens that generate valuable funds for our community, thought needs to be given to the growth of city and how this will be influenced by the city's building code.

Tourists arrive in Canberra and find a fantastic central focal point of the city during the day. Lake Burley Griffin and the surrounding attractions form a cultural centre, but as the sun sets and these institutions close, a tourist would find it very difficult to find the central heart of the city, the place where in other cities you may find eateries, bars, music venues and coffee shops. A non residential area, Garema Place could be such a space, but poor planning has inhibited this area. Business owners in Garmeia Place have been fighting for covered outdoor space for their patrons for years in order to generate valuable trade. This pedestrian zone could be a place where late night business could flourish but instead a small congregation of business has occurred on Bunda Street where covered outdoor areas have been installed as part of the development. If approval had been given for businesses through Garema Place to have these covered outdoor spaces then the natural and well-designed pedestrian thoroughfare of Garema Place could be a buzz with day and late night activity, unlike the ghost town we now see. It is a shame to see developers, who have provided what is required by business, were the ones who have shaped the centre of the city rather than town planners.

Braddon's many commercial properties such as the old Ford dealer on the corner of Elouera and Lonsdale, are about to be torn down to make way for multiple six story, mixed-use buildings. On this particular corner the Mode 3 development is about to be built. Like this development, many of these buildings will consist of bottom floor commercial space, three floors of offices or commercial space and two floors of residential on top. This area is zoned CZ3 under the Territory Plan. It is important to look at the objectives of the Commercial Zones as well as the particular objectives of the area. Although Braddon is just one area, it is a very similar situation in the city, town, group and local centres.

The below is taken from:

ACT Territory Plan, R45, 23 July 2010, Point 4.1, CZ1 – CZ6 Objectives and Development Tables.

CZ1 – Core Zone

Zone Objectives

- a) Encourage a mix of predominantly commercial land uses that contribute to a diverse and active character
- b) Provide for a range of conveniently located retail and service outlets
- c) *Promote vibrant, interesting and lively street frontages including during*



evenings and weekends

- d) Encourage an attractive, safe pedestrian environment with ready access to public transport
- e) Maintain and enhance a high standard of urban design through use of sustainable design and materials and ensure that buildings retain a high level of design consistency and compatibility
- f) Provide opportunities for business investment and employment
- g) Maintain and enhance environmental amenity
- h) Promote the establishment of cultural and community identity that is representative of, and appropriate to, the place

CZ2 – Business Zone

Zone Objectives

- a) Provide for office and business sites that are accessible to public transport and convenience retailing and services
- b) Provide a diverse range of accommodation sizes and locations for offices close to the retail core
- c) Encourage provision of convenient outlets for goods, services and facilities to meet the needs of the workforce
- d) Create vibrant lively pedestrian routes and public spaces
- e) Ensure a high quality urban environment through use of sustainable design and materials and maintain a high level of amenity for employees and the public

CZ3 – Services Zone

Zone Objectives

- a) Provide for a range of conveniently located services and lower rent commercial activities
- b) *Ensure that commercial development supports but does not undermine the function of the CZ1 Core Zone and the CZ2 Business Zone*
- c) Accommodate retail uses or entertainment facilities requiring larger sites
- d) Encourage a mix of land uses which contribute to an active and diverse character
- e) Maintain and enhance environmental amenity and encourage a standard of urban design consistent with the function of the Zone
- f) Undertake development using best practice environmentally sustainable development principles

CZ3 code point b) *Ensure that commercial development supports but does not undermine the function of the CZ1 Core Zone and the CZ2 Business Zone* is important to note. One of these functions is point CZ1 code point c) *Promote vibrant, interesting and lively street frontages including during evenings and weekends*. These codes are important as they are what gives our city its cultural soul. This point is mirrored in each code where one of the assessable developments stated under the code is drink establishments, that is, venues with liquor licences, restaurants, wine bars, nightclubs and cosy pubs. It is clear to see that nowhere in any of these



objectives does it state anything about promoting residential living or the rights of residential residents above others. It does state these zones should encourage a 'mix of land use' which may be commercial or residential but the code clearly states its intentions in CZ1 point c).

Part A (3) - City Centre – CZ3 Services Zone – Braddon

Intent:

- a) To provide for a range of conveniently located and relatively low-rent service trades and commercial uses close to residential areas
- b) To recognise the changing role of the area by facilitating its continuing growth as a mixed use area and promoting uses that create a diverse, lively and attractive character*
- c) To ensure that commercial development in the Services Zone does not undermine the function of the Core and Business Zones

CZ3 Services Code – Braddon, Point b) To recognise the changing role of the area by facilitating its continuing growth as a mixed use area and promoting uses that create a diverse, lively and attractive character, character which can be built around the presence of cocktail bars, coffee shops, music venues and other weekend and late night function areas similar to great venues such as Knightsbridge Penthouse, Debacle and the Civic Pub.

Zoned in CZ3, the Mode 3 development on the corner of Elouera and Lonsdale in Braddon will have two levels of residential living on its top floors. How then will late night restaurants, cafés or wine bars exist when outdoor seating areas will easily exceed the 50db required EPA threshold on a summer night just from patron chatter? Furthermore, how would great live music venues exist in these zones (where they have been specifically zoned to be) when consent for residential development has been approved in this area and noise limits remain as they are. Residents of the property have rights against noise therefore town planning must ensure spaces exist where late night venues can grow and thrive to ensure our city has a vibrant cultural soul.

Part A – Commercial Centres Overview - City Centre Development Code

CZ3 Services Zone

This Zone is intended for fringe retailing, which includes bulky goods, light industry, service trades, service stations, restaurants and indoor entertainment and recreation facilities. Residential, non-retail commercial and community uses are also permitted subject to compatibility with predominant land uses.

In the above City Centre Code, predominate land uses are outlined above in *CZ1 – CZ6 Objectives and Development Tables*, promote vibrant, interesting and lively street frontages during evenings and weekends. Although the above code is taken



from the City rather than Braddon, where residential property has been developed, it clearly shows how this development can effect evening and weekend lively street frontages. A perfect example is the current submissions from the Waldorf Serviced Apartments and the Transit bar.

The EPA plays a vital role in ensuring the rights of citizens are respected on noise pollution as well as ensuring our city is free from this pollution. If a complaint is made, noise is measured from the complaint location and this noise must not exceed the limit in the zone from which it is produced. A table of general limits is below. Concerts or events which attract over 2000 patrons may apply for an Environmental Authorisation which allows the event to operate at 65db level at the chosen compliance location.

Location	7am–10pm	10pm–7am
	(8am-10pm Sunday & Public Holidays)	(10pm-8am Sunday & Public Holidays)
Civic centre and other major town centres (Belconnen, Gungahlin, Woden and Tuggeranong)	60dB(A)	50dB(A)
Group centres such as Dickson and Kingston	55dB(A)	45dB(A)
Smaller local centres such as Griffith and Lyneham	50dB(A)	35dB(A)
Residential Areas	45dB(A)	35dB(A)

In 2009 Kicks' major event, Foreshore Summer Music Festival, reached its 12,000 person capacity and was able to increase visitation numbers (persons attending from over three hours drive) considerably from the previous year to 3712 patrons, generating approximately \$1.684 million for the ACT economy. Kicks has invested more funding in the 2010 event and is projecting 25% growth which will potentially inject \$2.6 million into the ACT economy.

As a result of this growth, Kicks has been scoping major event sites for the expansion and our research has found Parkes Place to be the only location in urban Canberra suitable for major events generating noise. This is due to distance from residential development, pre-existing city services and Environment Protection Authority (EPA) noise restrictions.



One of the first sites shortlisted was Stage 88, designed for outdoor concerts and festivals, the site is almost useless due now to residents living 300m from the stage front at The Forum apartments. An Environment Protection Authority (EPA) concert noise exemption will allow an event's noise output to reach a 65db limit but this would be impossible to achieve at concert level with residents so close.

The National Capital Authority (NCA) manages Stage 88 and it was also the NCA who approved The Forum residential development, which made Stage 88 useless for major modern concerts. If careful consideration is not taken when creating and or amending commercial zones, great events and venues will become a thing of the past just like Stage 88. While the Territory Plan is not responsible for this, as this occurred on National Land, legislators responsible for changes and updates to this plan must understand the power they have in determining the cultural future of late night and weekend entertainment in Canberra.

Even Exhibition Park in Canberra (EPIC) is not a feasible location for major concerts due to housing backing onto Northbourne Ave. Concerts such as AC/DC continue to skip Canberra as a destination as this venue is restricted by noise complaints. Rock festival Groovin the Moo, held at the University of Canberra was also allegedly fined due to non-compliance with their Environment Authorisation. In my knowledge of major concert events, I believe Groovin the Moo would never have met the compliance level due to close proximity to residential property. While I can not condone these business operations, I understand and sympathise with the events unfortunate situation when trying to deliver a great event to Canberrans and tourists.

Kicks Entertainment organised the charity event 'Block Party' for three years in the car park of Trinity bar in Dickson. This event raised over \$25,000 for OXFAM and Juvenile Diabetes Research Foundation and was a truly unique community street event for young Canberrans. Held in a CZ2 zone and running from 2pm until 10pm, the event could not continue due to the risk of EPA noise issues. Sheltered by buildings on all sides, very little noise leaked from the event zone into neighbouring residential areas but even still, the soft sound of bass guitar and beat would push the decibel level dangerously close to 55db. When measuring this level at the compliance zone, vehicles traveling down Antill street increased the decibel level to over 85db. The current maximum noise levels are unrealistic especially if standard engine noises are above the allowed decibel limit. While urban noises such as vehicle traffic will occur every day, special events or music concerts may only occur annually such as Block Party.

Block Party attempted to apply for an Environmental Authorisation allowing the event to operate at 65db at the chosen compliance location but as it was only an 1800 person event, the application was rejected. The EPA would not negotiate as the minimum requirement for an Authorisation of 65db is 2000 patrons, which is larger than the licenced area.



To provide an example of 65db at a compliance location, I will use Foreshore festival which operates at Commonwealth Place, Parkes. Kicks implements a technical audio system which projects downward into the main crowd body to absorb as much noise as possible. Every year Foreshore has managed to keep under the 65db level at the compliance location, the Landmark Apartments Kingston, over 1km away. Foreshore operates at standard show level of around 100db at front of stage but still maintains sub 65db at the compliance location. Although the Foreshore event is a special event and situation, it shows how relevant distance is from noise when considering building codes and zones. If residential property is to be built in commercial zones then more and more late night and weekend establishments and events will continue to suffer. Great entertainment venues will struggle to operate unless the issue of noise on evenings and weekends is addressed.

The key to Canberra's live music development lies in clear and concise town planning and raised accepted noise levels in commercial zones at all times. This is necessary in grouped centres such as Kingston, Dickson and Erindale where entertainment and night activity thrives outside the city. This inquiry's goal is to protect the rights of residents as much as protect the fragile live music and late night entertainment sector.

The Order of occupancy legislation will not protect residents or businesses and is flawed as it does not take into account the changes to a growing city. Giving sole rights to one resident or business, who was physically there first, the ability to influence any future endeavor gives far too much power to one person on the growth of that area.

ACT town planners and legislators must address the issue of noise levels in commercial zones designed to attract interesting and lively street frontages to ensure Canberra can grow into a city with modern and vibrant centres for living and entertaining. It is in ensuring the building codes and EPA levels are designed in conjunction with one another to allow for vibrant and potentially noisy developments to co-exist with residential property. This will guarantee businesses such as live music venues, late night coffee shops and cafes the opportunity to flourish with little complaint from residents.

Every major city around the world, especially Capital cities, thrive on arts, culture and hospitality. Pockets of life in major cities, such as Camden in London, Brunswick Street in Melbourne or Surry Hills in Sydney provide citizens and tourist entertainment at the end of the working day and a place where like minded people can begin business, relax or live.

Measures could be put in place to make mandatory legislation for venues playing music to have a two door entry system to trap noise. Residential property built in commercial zones could, as part of the building code, install double glazing on all windows. Acceptable noise levels in commercial zones could be raised. It is



imperative detailed research must be undertaken before legislation is passed on this issue to look at how other major cities around the world have built their vibrant evening and weekend life within central areas. Both the business and community music event operators, and residents rights must be taken into account and a situation formed where both can co-exist so citizens under 30 years old do not continue to leave Canberra in search of a city more diverse in its offerings.

It has been mentioned to the inquiry a music precinct could be created to help foster this industry. Canberra desperately needs a multi-purpose music and entertainment venue, both for community and commercial use. At present there are only a few venues and all are highly inflexible and expensive. As a business owner who utilises these spaces regularly, I can not imagine how community associations and groups would be able to find the funds, or adequate space, to operate their events or concerts.

A multi-purpose arts centre owned by the government with rehearsal rooms, dance halls, a flexible floor space main entertainment arena would be a venue used by both commercial entities as well as non-profit community groups. I would be happy to elaborate more on this issue if requested.

While this venue would be great, it would be difficult to find somewhere to house it, which highlights the problem with commercial zoning. The inquiry has suggested building a music precinct in Canberra, however the only place a precinct could realistically be developed in order to service Canberrans would be somewhere in the central district and there is very little area left with out residential development close by. A precinct does not address all the suburban centres such as Dickson, Griffith, Kingston or Erindale. These areas also need assistance through this inquiry otherwise they will continue to see late night entertainment struggle. A solution is not just dumping all late night entertaining in one place but rather ensuring the commercial zoned areas can successfully support these businesses.

Canberra is growing rapidly and we have the opportunity to mold the soul of the city and its suburban centres into social, artistic and thriving areas. Acting now will not only save live music and community events but also give Canberra the heartbeat it needs. I for one do not want to live in a city where residents cannot co-exist with great restaurants and bars or major cultural events. I submit this as not only a business owner but a youthful resident of Canberra and would welcome the opportunity to present my submission in person.

Regards,

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