

**Inquiry into Live Community Events – Submission Paper  
2009**

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN  
CAPITAL TERRITORY**

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

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## **1. Executive Summary**

Music is a vital part of cultural expression and diversity in society. It not only contributes vibrancy to society and provides a safe outlet of expression, but also provides substantial financial benefits to society.

Live music is an increasingly vital component of musical expression and music artist careers. As such it is important that consideration is given to providing and maintaining opportunities for this expression, whether for amateur performers or for emerging or established artists. The live performance requirements of each category can vary but the essential safeguards are similar.

A well considered approach should be given to developing and maintaining these opportunities by Government. The consideration should not be to the detriment of investment opportunities such as residential developments, but be in a reasonable and equitable manner to maintain opportunities and a vibrant society.

### **Recommendations:**

1. Order of Occupancy legislation is reviewed to include provision for order of first use which incorporates changes in licensees, and includes business to business activities as well as residential to business considerations.
2. Order of Occupancy include responsibility on incoming party to provide adequate noise insulation, and this be enforced uniformly.
3. Incentives/subsidies for noise insulation and advisory support be provided by Government to encourage investment by residential developers, venue operators, retailers etc

4. The number of bollards be increased in major town centres and bollards provided for in smaller town centres.
5. Additional designated areas be established for wall posters which could incorporate urban art.
6. The ACT Government work with stakeholders on establishing a code of conduct for postering/flyers etc.
7. Establish a designated cleaning day for bollards – so posterers can plan around cleaning time?
8. Zoning legislation to consider impacts on existing properties/business of any changes such as from industrial to including residential.
9. Zoning legislation to work in conjunction with order of occupancy by “linking” incentives to encourage investment and diversity.
10. Zoning considerations to think more broadly than “just” establishing arts precincts and identify ways to incorporate diversity within any given zone.

## 2. Overview

The Australian music industry is a large contributor to Australian society both financially and culturally.

The number of people participating in music in Australia in 2004 was 230,800 (as live performers). In 2007, 66,000 people were actively involved in music in a professional/semi-professional manner, with 65% (43,000) being involved in rock/pop/folk/jazz. (Music Council of Australia/ABS)

Independent artists constitute a large majority of the number of people participating. The major barriers facing independent artists are distribution and marketing as these are the “how do I develop my song-writing, musicianship and performing skills, and how do I let people know about me and my music?” Live music is a key component of both categories.

There are a series of threats to contemporary music including increased piracy of recorded works that increase the importance of live performance in an artist’s career. (Powles 2008) Live performance is also highly important form of entertainment with 34% of people aged 15 or over had been to a popular music concert in 12 month period in 2005-06 (ABS 2005-06)

The music industry generates an estimated 7 billion dollars for the Australian economy. In the ACT it generates millions of dollars in revenue and provides for a large number of jobs. The live music industry in the ACT in 2007 included over 80 businesses (ABS 2003-07) and employment opportunities including but not limited to: venue staff, production, rehearsal rooms, recording studios, instrument and production equipment retailers (Canberra has 3 main retailers – Better Music, Davis Wheeler and Pro Audio), graphic designers, photographers, printers, video production, accommodation, vehicle hire, instrument repairers, booking agents, promoters, food and beverage suppliers and government (via licensing and taxation income). The 21 Arts organisations included in the ABS survey generated \$5.5m and expended \$1.5m in wages and salaries in 2007.

Most states have a contemporary music body, with each operating in different ways and offering different services. Music NSW, WAM, Q Music and Ausmusic SA all have members but offer different services, ranging from grant application help to discounts to industry events. While there is a funding body, artsACT, the ACT does not have an official music body to assist with the broad range of information and issues, and advocate on their behalf. As such music artists in the ACT are even further disadvantaged.

A review of the importance of music and cultural diversity which is included in the IMC/UNSECSO paper stated 'Through support both **regulatory** and **financial**, governments should foster musical diversity within their borders. Such support can go to local music's of all genres, with emphasis on the genres that are unable to be financially self-sustaining and face market failure. It can also go to facilitate access to music from other countries, whether live or mediated.' (Letts 2006)

The ACT Government has a stated vision for arts in the ACT "The ACT is rich in arts activities and experiences that creatively engage, challenge and inspire our community" and its Objectives are stated as:

1. Create more demand for the arts in Canberra.
2. Build engagement and participation in the arts through strategic partnerships and skills development, (ACT Government 2008-2010).

The ACT Government's stated vision places considerable emphasis on the Territory being highly supportive of the Arts and helping the Arts thrive. An essential part of music performance is live music where musicians get to express their art in a different form to the recorded work, promote the recorded work and engage directly with the public. Governments therefore have a responsibility to minimise inhibitors of live performance by limiting restrictions on live venues and engaging in the establishment of residential properties in a well considered manner to reduce the risk of legal exploitation of the law in closing down venues and performance spaces.

### **3. Review of order of occupancy legislation**

Any discussion on occupancy and zoning laws needs a multiple facet approach to be effective, incorporating:

1. community venues such as community centres, youth centres, public spaces, and
2. established/new live music venues such as pubs, exhibition and convention centres, nightclubs, bars, cafes etc.

The Right of first occupancy is an important common sense tool in protecting the rights of venues, retailers, businesses and residents. If there are existing residential properties the responsibility should fall on the “new” venue in providing adequate noise insulation. Likewise if there is a venue operating in the area then the onus should be on the developer of new residencies to ensure sufficient noise insulation for residents.

The right of first occupancy rule should also apply to existing businesses – eg if a restaurant is established next door/above/below an existing live music venue, then the restaurant should have the responsibility to ensure sufficient noise insulation for their patrons. The case of café Macchiato versus The Gypsy Bar is a recent local case in point.

We also believe that the order of occupancy rule should incorporate an order of first use (acknowledged or historical) to ensure no legal exploitation on this basis. This would provide assurance to new owners/licensors that their investment was not at risk from a potential “loophole”. This applies equally to residential properties and live venues as both would have valid concerns, particularly if there was a corresponding change in zoning of the area. For example if licensee/owner changes in a live music venue then decisions should still be on the basis of acknowledged/historical use rather than the licensee/owner so the live performance space is protected. An example of this is the legendary Rainbow hotel in Fitzroy had been hosting live music since 1930 – obviously ownership and licensees have changed. In recent years the

zone changed from industrial to include residential with the effect that the Rainbow was closed after 78 years of providing entertainment. (Donnovan & Houston 2007)

#### **4. Options to encourage or require large commercial developments in group or town centres to provide community bollards for the promotion of events via bill posters**

Live performers by and large have very little money by which to promote their art. Posters are a relatively low-cost way to promote their art.

Public bollards provide a tangible way of Government showing support for established artists, and also for fledgling artists who are “support acts” on a performance line-up by providing a method to promote their performances while keeping promotion costs low.]

Posters not only advertise performances/artwork but also help reinforce a “brand” for the artist. Posters are also often regarded as artworks in their own right and both individually and collectively can be considered “urban art”

The bollards at University of Canberra and ANU are very good examples of the number and size of bollards functioning well.

Alternative “designated spaces” could be established – eg dedicated “walls” in bus interchanges etc. [Half mural/half poster space – with images of frames or sign posts etc.]

The very limited number of bollards is a definite issue and is one of the many reasons postering can be “mis-used” in in-appropriate places. The number of live art performances in Canberra can be quite large when you include live music, theatre, circus, musicals, art exhibitions etc. In the Civic interchange there are 2 bollards which are insufficient. We would like to see more bollards provided in the major centres and bollards provided in the smaller shopping/town centres.

Establish a code of conduct for 'postering' with stakeholders such as the venues, promoters and groups like Canberra Musicians Club, Canberra Blues Society, Canberra dance music community etc. For example, limit of posters per bollard, no 'postering over' where event still to run.

Establish a designated cleaning day for bollards – so posterers can plan around cleaning time?

**5. An examination of how building codes for residential and business development in commercial zones could be amended to ensure sound insulation and physical security are appropriate to co-location with live cultural events.**

We feel there should be consideration to any changes in zones. If an area is changed in status to incorporate residential there needs to be protection for existing business/residents – not just live music venues. For example, “new” residents may complain about excess traffic because of the neighbouring/nearby venues/offices/retail/industry, or noise from car parks, beer gardens or function rooms. As mentioned previously, the case of the Rainbow hotel in Fitzroy highlights the effects of changes in zoning. (Donnovan & Houston 2007)

Government planning consideration for new areas such as Gunghalin should give consideration on how establishing new live music venues/business/residences will be considered. Possible solutions could include government rebates for sound insulation to encourage investment while maintaining diversity.

Establishment of arts “precincts” offer a very limited solution as they can only cater for small number of performances and quite often only provide opportunity to artists who are somewhat established. There are occasional development type events but these are quite often too sporadic to provide any real lasting benefit to developing artists.

When creating or changing legislation, due consideration should be given to ensure there are effective and practical compliance measures, that can be applied. Compliance levels need to be enforced both ways – eg noise restriction limits are enforced but there have been instances where there has not been enforcement on

the residential developers for not providing adequate and/or recommended noise insulation.

## **Appendix A – Biography of authors**

### **Peter Bayliss**

Peter has been involved in the Australian music industry for the past 17 years in a number of roles including performer, artist manager, booker, promoter, event manager and label manager.

Clients have included:

- international artists such as David Knopfler (Dire Straits), Hugh Cornwell (The Stranglers), Andy White
- Australian artists including Hirst and Greene, Greg Arnold (Things of Stone and Wood), David McCormack (Custard), Genevieve Maynard, Big Heavy Stuff, Lucid,
- ACT artists including Quick 50, Redletter, beanort, Randall Blair & the Wedded Bliss, Jessica Cain, Special Gueststar and Icecream Headache.
- Local promotion/events/resource management clients including Mission Media (Livid, Grinspoon, Jebediah), Usher, Jah Rule, Olivia Newton John, Goodshirt Indymfest, Longhaul Records

Peter has also been heavily involved in artist development and support including facilitating indigenous artist panels, mentoring through NSW Starts and Indent programs, judging various competitions including Music Oz, Global Battle of the Bands, being a panellist at industry conferences & forums, and being on the national Forces Advisory Panel. Peter was awarded an Ozymusic ACT music industry achievement award in 2002 for services to the local contemporary music industry.

Peter is a Chartered Accountant and has also served as a Director/Treasurer with Canberra Community Radio 2XX, Director/Chair/Company Secretary Music Managers Forum Australia (he also established the ACT Branch) and Company Secretary with a number of State and National organisations.

## **Bruce Ryan**

I'm a public servant working for the tax office; as such I have 27 years experience in:

- o working with a team to achieve a common goal
- o meeting/conference/group facilitation
- o training small groups and
- o written/oral communication.

I've worked voluntarily and part-time in radio as a producer and DJ for 2XX, 2SSSFM + 104.7.

I've worked part time in the music industry for the last 20 years, and have experience in doing things such as:

- o managing bands (eg Twister, Scruff Lovely, Draw, Velveteen, Namaste Jake + Changeable Dan)
- o stage managing at shows - Metal for the Brain, Trackside, Corinbank + the National Folk Festival
- o booking shows for bands such as - Dreaming Genies, The Whitlams + Mick Hart + Justin Heazlewood
- o operating as a committee member - Music Managers Forum, ACTmusic, Canberra Musicians Club and the ACT Youth Refuge, and
- o event managing Indymfest.

## **Appendix B – List of supporters of submission**

### **Organisations/Businesses:**

West Australian Music Industry (WAMI)  
Australian Association of Artist Managers (AAM)  
Australian Music Publishers Association (AMPAL)  
A Red Letter Day event and artist management  
Brispop.com  
Sweet-mate Productions WA  
White Noise Productions NSW/ACT  
Indyfest  
Into Tomorrow Pty Ltd

### **Individuals**

Alistair Cranney – director Fuse Festival (SA) and Song Front  
Bek Hall – artist ACT  
Bill Page – Creative Director Mushroom Music Publishing  
Bill Cullen – One Louder Entertainment, Board member AAM, PPCA  
David Christopher – international musical artist & former Canberran  
David Price – artist ACT  
Geoff Bell – Laing Entertainment  
Gregg Donovan – Wonderlick Entertainment, Director Australian Artist Managers Association (AAM) and founder of Indyfest  
Jessica Cain – artist ACT/NSW  
Kim Thomas – Blak Yak Records  
Luke Rinaldi – Director Sweetmate Production WA  
Michael McMartin – International Music Managers Forum  
Paul Green – artist NSW  
Penny Weber – Jam-packed Entertainment Victoria  
Stuart Coupe – Director Laughing Outlaw Records  
Tracy Redhead & Vicki Anderson – VROOM (Live music portal – Music NSW)  
Wes Slater – artist and studio owner ACT

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