



AUSTRALIAN HOTELS ASSOCIATION

ACT BRANCH

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28 July 2010

Ms Mary Porter MLA
Chair
Standing Committee on Planning, Public Works and Territory and Municipal Services
C/- ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2600

Via Email: committees@parliament.act.gov.au

Dear Ms Porter

Re: Inquiry into Live Community Events

Thank you for the opportunity to pursue reform on this area of importance to many of our members. This submission expands on the testimonies provided directly by our members the George Harcourt Inn, the Lighthouse Bar, Sub-Urban and the Transit Bar when the AHA hosted the Committee members on a tour of live music venues on the night of Friday 28 May 2010.

About the AHA

The Australian Hotels Association is an organisation of employers registered under the *Fair Work (Registered Organisations) Act 2009* representing over 5,000 hospitality venues across Australia through branches operating in each state and territory. In the ACT the AHA's members include pubs, nightclubs, small bars, restaurants and accommodation hotels – a membership that includes owner-operated small businesses as well as some of the world's most recognisable companies. 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.

The relevance of the licensed hospitality industry to this Inquiry

The AHA considers both amplified recorded music and live music within hospitality venues to be a 'Live Community Event' for the purposes of this inquiry. We note that many of the submissions made to the Committee relate to specific noise-related disputes involving individual venues going about their normal business, so it is clear that the issue goes beyond simply 'live community events' such as those occurring in public space in Garema Place.

The need for reform of ACT planning and licensing regimes

With increasing residential 'infilling' of the ACT it is essential that Order of Occupancy principles are observed when considering the inevitable disputes that arise in relation to the noise emitted by music and community events. It must be remembered that people willingly pay a premium to live in close proximity to shopping centres, services and entertainment options, including nightlife. It is a lifestyle choice. People who choose to live in close proximity to hospitality venues or in entertainment precincts do so in the knowledge that noise is a part of that environment. Developers specifically promote proximity to local restaurants and pubs as an incentive to purchasers as evidenced in several examples included as attachments to this submission.

The AHA is aware of a number of separate circumstances involving several of its members in which a licensed hospitality venue has been established for many years and suddenly faces noise complaints from residents of newly-constructed nearby residential dwellings. The venues are merely conducting business as usual, but face the prospect of business failure if their trading conditions are restricted as a result of the complaints.

The AHA also supports the submission of the Australasian Performing Rights Association (APRA), which explains the value of live music events to the vibrancy of a city and the difficulty faced by prospective event organisers in the ACT.

Comments on the Committee's Interim Report

The Committee's Interim Report was released in December 2009 and made nine recommendations. The AHA commends the Committee for its work in considering the challenges faced by organisers of live community events (including music played at licensed premises) and supports the general direction of the Interim Report. In particular the AHA strongly supports Recommendations 2, 3, 4 and 5 as these go to the heart of the key issue faced by our members, a lack of protection under planning legislation from noise related complaints by 'newcomers' to the area.

In relation to Recommendation 3: "that the *Liquor Act 1975* enable the Commissioner to consider Order of Occupancy principles when investigating complaints in relation to a licensee", the AHA is supportive and notes that the Government is currently reviewing this legislation. The *Liquor Bill 2010* is expected to be introduced to the Assembly later this month.

The AHA submits that a 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 potential occupants of Order of Occupancy provisions. This would ensure that all people who move into apartments or housing located near licensed premises do so in full knowledge of the likelihood of noise being produced and in understanding of the limitations on the amenity of the area.

Committee Tour of Live Music Venues

The AHA thanks the Committee members for taking the time to join the AHA late in the evening on Friday 28 May 2010 in visiting a number of venues affected by noise complaints from nearby residents.

The George Harcourt Inn (Gold Creek). ‘The George’ has operated for 30 years as a pub, casual dining venue and a home for live music performances in its spacious beer garden. It has been remotely located without any nearby residential housing until recent development in the surrounding area of Nicholls. The Committee has heard that the venue has been forced to incur significant landscaping costs from redesigning its outdoor area to minimise noise, and has also imposed a voluntary curfew on live music in an attempt to be a ‘good neighbour’.

The Lighthouse Bar (Belconnen). The Collins family has owned this venue for seven years, but it has operated continuously in various forms as a pub/nightclub for much longer. The Committee heard that ACTPLA’s recent decision to permit residential apartments to be developed on an adjacent block of land is of significant concern to the Lighthouse’s owners, who have good reason to fear the outcome of noise complaints from newcomer residents. Order of occupancy provisions are needed to protect this venue and others in similar situations.

Sub-Urban (Dickson). The recent construction of residential apartments in Cape Street has seen noise complaints made against Sub-Urban. Despite being licensed to trade until 5am inside, and 2am outside, Sub-Urban has chosen to close its outdoor area at around 12.30am and to fully close by around 2am. The owners of Sub-Urban have also invested in costly sound-proofing infrastructure to reduce noise leakage from the venue. Committee members observed from the other side of Cape Street that the noise emitting from Sub-Urban was minimal. The Committee also heard that the majority of the noise complaints made regarding Sub-Urban relates to noise made by people talking as they cross the busy Cape Street/Woolley Street pedestrian crossings, which are used by patrons from all venues in the area. It appears the apartments were built with inadequate sound proofing despite being located only metres from the busy Dickson hospitality precinct.

Transit Bar (Civic). The dispute between the Transit Bar and the residents of the Waldorf Apartments are well known and comprise a significant proportion of submissions made to the Inquiry. Since both venues are AHA members, the Association has not ‘taken sides’ in the issue, but points out that if better laws had been in place previously there may well have been no issue. The Committee observed that the Transit Bar’s soundproofing infrastructure was effective in preventing noise leakage, despite a well-attended music event taking place inside on the night. The Committee also heard that the Transit Bar has decided to close down its outdoor area at around 11.30pm (well before it’s 2am licence allows) in an attempt to minimise its impact on the Waldorf and the YHA hostel located directly above.

Conclusion

Each of these venues has experienced significant inconvenience and costs associated with complaints being made by nearby residents. In each case the venue argues that either the venue was ‘there first’ and has a right to continue to operate as they always have, or argues that the nature of their location (ie, the CBD) should provide some protection from noise complaints.

The AHA also raises the possibility of the National Convention Centre facing noise complaints from residents of the newly constructed apartments in Glebe Park. The NCC is Canberra’s only suitable venue for major music concerts and must be protected from any restrictions or imposts as a result of residential development. It is reasonable to expect that anyone moving into an apartment located next to the city’s main concert venue is going to occasionally be subjected to noise arising from the venue. The same principle applies to anyone moving into a residence located near established hospitality venues or precincts. It is unreasonable to expect a pre-existing business to curtail its trade to accommodate newcomers who should have known what to expect.

The Committee also heard on the tour that the Government's smoking legislation has been perhaps the biggest cause of noise complaints made against AHA member venues. Because people are now forced outside to smoke, there is a greater chance of noise from chatter impacting on local residents.

The AHA commends the Committee on the work it has put into this Inquiry to date and supports the need for Order of Occupancy principles to be adopted into ACT planning and licensing laws. We support requiring developers of residential accommodation located near existing hospitality venues to adequately soundproof their buildings and to notify occupants of Order of Occupancy principles.

Yours sincerely

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

Steven Fanner
General Manager

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