

Gail Easton

From: Stephen Groves
Sent: Tuesday, 20 September 2011 12:46 PM
To: Legal Affairs Police Corrective Services and Emerg Svc Committee
Subject: Submission re Noise Laws provisions - Police Powers and Responsibilities and Other Legislation Amendment Bill 2011

I would like to make some comments on the Noise Complaint sections of the Police Powers and Responsibilities and Other Legislation Amendment Bill 2011, particularly clause 83 to clause 85 covering sections 581 to 583 and the new proposed section 581A.

I have already raised concerns about the Noise Laws and received a response from The Minister for Police, Corrective Services and Emergency Services, Mr Neil Roberts, dated 11 December 2009.

A HYPOTHETICAL:

There is a house in a quiet neighbourhood where the occupants frequently go out at weekends or public holidays and come home in the early hours of the morning (usually 2.00am to 4.00am) with a bunch of mates and continue the party at home. Very loud noise in the street as people get out of a taxi and loud banging of the metal frame door as they go into the house.

The group settles outside in the back yard near the pool and the party continues with very loud conversation, yelling out etc. A dip in the pool is a regular party trick of the owner - "f... its cold", shivering noises and other loud yelling out the usual behaviour. The pool and entertainment area are right next to bedrooms of neighbours on either side.

Noise Complaints are made - usually by up to three neighbours. There are other neighbours who are elderly and do not want to get involved and just put up with it.

In due course the Police arrive and shut the party down and then there is more banging of the front metal door as people leave and lots of noise in the street as people wait for taxis or to be picked up.

Because the Police usually have important other work to attend to there can be significant delays in attending - an hour plus is common and sometimes they cannot attend at all.

Meanwhile the damage has been done - the neighbours have had their sleep wrecked, quite often cannot get back to sleep that night, and are exhausted for days.

THE PROBLEM

There is no deterrent with the current or proposed legislation. All that happens is that the party is shut down and they may get a Noise Abatement Direction. Usually they just go somewhere else and continue the party.

Under the current legislation they can have a party every night (as long as it is not within twelve hours of being issued a Noise Abatement Direction), and under the proposed legislation every 4 - 5 days, without any penalty. Certainly there currently is no deterrent to having a party or parties every weekend, and after the proposed legislation is implemented one party every four or five days.

Because there is no real deterrent, the noise continues week after week, and Police continue to spend time on complaints when no doubt they have more important issues they should be dealing with.

Neighbours have their sleep regularly disrupted, are exhausted, and generally fed up with the inadequacy of the current laws.

SOME SUGGESTIONS:

1. There needs to be some sort of repeat offender legislation. Possibly repeat

offenders who have been issued two Noise Abatement Directions within the last say three months could be issued an on the spot fine for a third offence, and

2. There needs to be a provision to allow for a Noise Abatement Order to be requested from a Magistrate such is the case in New South Wales. (an interesting reference is NSW case Jean Whittlam v Sara Hannah & John Hannah [2011] Downing Centre Local Court 63913/11.)

I note that there are a repeat offender/Noise Abatement Order provisions from S.589 in respect of motorbike noise.

3. The extension of time from 12 hours to 96 hours for a Noise Abatement Direction is totally inadequate. Being woken once a weekend instead of every night of the weekend is a small step forward, but the situation is still not acceptable.

I understand that the law in New South Wales has a lot more sensible 28 days as the time from when a Noise Abatement Direction is given:

[Http://www.legislation.nsw.gov.au/viewtop/inforce/act+156+1997+FIRST+0+N/](http://www.legislation.nsw.gov.au/viewtop/inforce/act+156+1997+FIRST+0+N/)

SUMMARY

I wonder if anyone has made a study of the time the Police are spending trying to apply the current toothless Noise laws. The proposed laws will only be very marginally better.

Giving a reasonable time such as 28 days like in NSW for a Noise Abatement Direction to be in place, plus some form of repeat offender provision including application for a Noise Abatement Order, would provide some real deterrent for those who currently do not have any consideration for others. These measures would save the Police a considerable amount of effort, or at least give them some real tools to work with to help sort out these problems.