

LIVING WITH LIVE MUSIC



General guide for residents, operators and developers of land in proximity to a live music venue

Live music has long played an important role in the municipality and St Kilda in particular, which is arguably Australia's most famous music suburb. Council supports live music's role in our communities and the important role live music culture has and continues to play in the area for many residents and visitors. Live music venues also make a significant contribution to the local economy and provide important opportunities for emerging and established local musicians.

Council is committed to working with live music venues and the community to achieve a balance that supports live music whilst protecting residential amenity.

This guide suggests ways to manage issues if they arise. Inner city living can be noisy, but noise has a legal measure. This guide is to help you know if the noise you hear is over the legal limit and if it is what further action could be taken.

The guide also outlines Council's approach to planning permit applications for a change of use in a building, a proposed new venue with a live music component, or a new residential development close to an existing live music venue.

Live music is music played live where a person or a group of people play musical instruments, often with an amplifier. It is typically played above background music levels (background music is considered to be played at a level which generally allows patrons to converse with one another without raising their voices).

This guide covers two parts:

1. Conflict between venues and residents. Is there a better way to deal with issues?
2. How Council deals with planning permit applications involving live music issues.



I. Complaints between venues and residents. Is there a better way to deal with issues?

Live music venues are commonly located in shopping and entertainment areas in activity centres. Often existing businesses in these centres may wish to include live music in their offering in order to diversify and attract more customers. There can be conflict between venues and nearby residents over the level of amenity and impacts local residents can expect. The main complaints received by Council relate to noise from venues and the behaviour of patrons leaving venues at night.

Fundamental points:

- Just because you can hear 'music noise' doesn't mean it is excessive. Where music noise is excessive or not is measured against State Environmental Protection Policy SEPP N2 (Control of Music Noise from Public Premises) www.epa.vic.gov.au/about-us/legislation/noise-legislation.
- Residents living in close proximity to vibrant inner city activity centres cannot expect the same level of quiet enjoyment that would be found within a solely residential area.
- Live music venues need to ensure their operation is reasonable and complies with all relevant controls and SEPP N2.

Council encourages neighbours and live music venues to discuss their issues directly with one another with open communication in the spirit of finding the right balance for both parties. Often venues are unaware of an impact they are having on nearby residents; and residents do not feel comfortable approaching a venue. It is helpful if both parties can communicate and work together. This is often the quickest and most effective way of resolving issues.

For venues with live music - What to do if you receive a complaint from a resident regarding music levels?

- Consider the resident's concerns and if possible, take action to address the concern at the time.
- Consider closing windows or doors, orientating the live music away from residential premises, or reducing the music levels.
- Offer a direct line of communication such as the manager's mobile number and encourage the resident's contact when problems arise.
- Contact Council's Planning Compliance Officers for advice on how to best respond and work with neighbours when conflict arises. If Council becomes involved we will seek to work with all parties to find a workable solution through ongoing communication.
- Consider seeking advice from a qualified acoustic engineer to ensure music levels comply with State Environmental Protection Policy SEPP N2 (Control of Music Noise from Public Premises).

For nearby residents - What to do if you are annoyed by live music?

- Consider the circumstances, general locale and impacts to decide if the music level is excessive.
- Approach the venue directly and seek to work with them to find solutions that meet both your and the venue's needs.
- Continue to liaise with the venue and provide feedback.
- If a solution cannot be found with the venue and music levels continue to adversely affect you, you may wish to contact Council's Planning Compliance Officers.
- Council will assist parties to find a workable solution through ongoing communication.
- If complaints about Live Music noise continues Council may engage acoustic consultants to establish music noise levels relative to State Environmental Protection Policy SEPP N2 (Control of Music Noise from Public Premises).
- If clear breaches of SEPP N-2 or planning permit conditions are found, Council will take action to ensure the venue operator achieves compliance.
- If immediate and urgent action is required in relation to an issue with how the venue is operating Victoria Police should be contacted on 000. If not urgent, contact the Prahran Liquor Licensing Unit on 9520 5860 or email prah-divlicensing@police.vic.gov.au who investigate licensed venues in relation their liquor licence pursuant to the "Liquor Control Reform Act 1998.



2. How Council deals with applications in relation to live music

Background

Within Port Phillip live music usually occurs in a venue that has approval for live music as part of its planning permit for a nightclub or as part of its liquor licence for the sale and consumption of alcohol.

Live music venues are permitted to operate in accordance with their planning permit provided they restrict impacts (such as noise) within the prescribed limits (such as State Environmental Protection Policy SEPP N2 (Control of Music Noise from Public Premises)).

Problems can arise if a venue which only had background music introduces louder live music without the necessary approvals. An initial noise complaint can trigger other non-compliance issues for which Council will have an obligation to investigate further.

'Agent of change' principle

Where a planning permit is required, Council will apply the 'agent of change' principle. If the 'agent of change' is a residential developer, they have the responsibility to protect occupants from noise from existing live music venues which are complying with SEPP N2. If the 'agent of change' is a live music venue operator then they have a responsibility to minimise live music impacts outside the premises and to ensure that noise emissions comply with SEPP N2. The 'agent of change' is the person or developer/entity that creates a change by building residential development close to a venue with live music or is a venue that introduces live music close to residential or other sensitive uses.

Existing venue – amendment to an existing planning permit or liquor licence

A new planning permit application is usually needed for:

- A nightclub.
- A new liquor licence or a change to the conditions on a liquor licence.

If a venue operator would like to include live music, they need to indicate how they are going to control the impacts which may result. In particular, they should show how SEPP N2 will be complied with.

Council will usually need a report from a qualified acoustic engineer outlining how noise will be adequately managed. The report may recommend a Noise Monitor and Limiter to ensure noise emanating from the venue satisfies SEPP N2 prescribed limits at all times.

Venues also need to demonstrate how they will control the behaviour of patrons coming and going from the venue in order to minimise impacts on neighbouring properties. Live music programming can mean an increase in the number of patrons arriving or departing a venue at one time. This potentially results in noise and general nuisance impacts. Details for how these impacts could be managed and minimised may be required as part of a Security Management Plan. A venue's ability to restrict the impacts identified above will increase the possibility of obtaining a planning permit where

one is required.

Council will assess any application on its merits and take account of surrounding development and generally apply the 'agent of change' principle in applications that include a live music component.

New residential developments near live music venues

New residential developments near a live music venue will be required to ensure the new building provides the residents increased protection from noise through the building's design and incorporation of sound attenuating building materials. For residential development, future occupant protection can be supported at the design stage through the placement of little used spaces like walkways, bathrooms or storage areas closest to the noise source, by ensuring noise sensitive rooms such as bedrooms are positioned away from the music source and/or through the acoustic qualities of construction material.

Council will assess a planning permit application for residential development on its merits and take account of surrounding development and apply the 'agent of change' principle where the site is near an existing live music venue. A report from a qualified acoustic engineer confirming that adequate noise attenuation will be incorporated into the external facade of the new building will often be needed.

Discussion with Council

We recommend as much information as possible be provided with any application to reduce the likelihood that Council will request more information after lodgement. We also encourage operators and/or developers to make an appointment to speak with one of Council's Statutory Planners to discuss proposals prior to lodging any necessary planning permit application.

Council can be contacted during normal business hours on 9209 6777 or by email at assist@portphillip.vic.gov.au by mail at City of Port Phillip, Private Bag 3, St Kilda, Victoria, Australia, 3182 or in person at the ASSIST Counter located at the St Kilda Town Hall reception.

Further links:

EPA Victoria (SEPP N 2): www.epa.vic.gov.au/about-us/legislation/noise-legislation

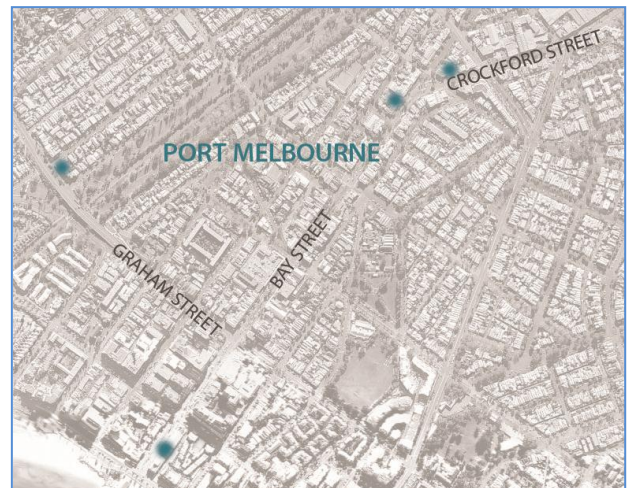
Victorian Commission for Gambling and Liquor Regulation (VCGLR):

www.vcglr.vic.gov.au/home/liquor/

DPCD:

www.dpcd.vic.gov.au/planning/publicationsandresearch/codes-and-guidelines/live-music-taskforce

Music Victoria: www.musicvictoria.com.au/



- current live music venues (as of March 2013)
- including occasional venues

(not to scale, indicative only)

source: <http://www.musicvictoria.com.au/news/story/10222>