

53.06

28/09/2020
VC183

LIVE MUSIC ENTERTAINMENT VENUES

Purpose

To recognise that live music is an important part of the State's culture and economy.

To encourage the retention of existing and the development of new live music entertainment venues.

To protect live music entertainment venues from the encroachment of noise sensitive residential uses.

To ensure that noise sensitive residential uses are satisfactorily protected from unreasonable levels of live music and entertainment noise.

To ensure that the primary responsibility for noise attenuation rests with the agent of change.

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Application

This clause applies to an application required under any zone of this scheme to use land for, or to construct a building or construct or carry out works associated with:

- A live music entertainment venue.
- A noise sensitive residential use that is within 50 metres of a live music entertainment venue.
- A noise sensitive residential use that is in an area specified in clause 1.0 of the schedule to this clause

This clause does not apply to:

- The extension of an existing dwelling.
- A noise sensitive residential use that is in an area specified in clause 2.0 of the schedule to this clause.

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Meaning of terms

In this clause:

- ***live music entertainment venue*** means:
 - a food and drink premises, nightclub, function centre or residential hotel that includes live music entertainment
 - a rehearsal studio
 - any other venue used for the performance of music and specified in clause 3.0 of the schedule to this clause, subject to any specified condition or limitation.
- ***noise sensitive residential use*** means a community care accommodation, dependent person's unit, dwelling, residential aged care facility, residential village, retirement village or rooming house.

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Requirements to be met

A live music entertainment venue must be designed, constructed and managed to minimise noise emissions from the premises and provide acoustic attenuation measures that would protect a noise sensitive residential use within 50 metres of the venue.

A noise sensitive residential use must be designed and constructed to include acoustic attenuation measures that will reduce noise levels from any:

- Indoor live music entertainment venue to below the noise limits specified in State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N2).

- Outdoor live music entertainment venue to below 45dB(A), assessed as an L_{eq} over 15 minutes.

For the purpose of assessing whether the above noise standards are met, the noise measurement point may be located inside a habitable room of a noise sensitive residential use with windows and doors closed (Schedule B1 of SEPP N2 does not apply).

A permit may be granted to reduce or waive these requirements if the responsible authority is satisfied that an alternative measure meets the purpose of this clause.

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Application requirements

An application must be accompanied by the following information, as appropriate:

- A site analysis, including plans detailing:
 - the existing and proposed layout of the use, buildings or works, including all external windows and doors
 - the location of any doors, windows and open space areas of existing properties in close proximity to the site.
- If the application is associated with a noise sensitive residential use:
 - the location of any live music entertainment venues within 50 metres of the site
 - the days and hours of operation of identified venues.
- If the application is associated with a live music entertainment venue:
 - the location of any noise sensitive residential uses within 50 metres of the site
 - the days and hours of operation of that venue
 - the times during which live music will be performed.
- Details of existing and proposed acoustic attenuation measures.
- An assessment of the impact of the proposal on the functioning of live music venues.

If in the opinion of the responsible authority an application requirement is not relevant to the evaluation of an application, the responsible authority may waive or reduce the requirement.

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Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The extent to which the siting, layout, design and construction minimise the potential for noise impacts.
- Whether existing or proposed noise sensitive residential uses will be satisfactorily protected from unreasonable live music and entertainment noise.
- Whether the proposal adversely affects any existing uses.
- The social and economic significance of an existing live music entertainment venue.
- The impact of the proposal on the functioning of live music venues.

13.07-3S

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Live music

Objective

To encourage, create and protect opportunities for the enjoyment of live music.

Strategies

Identify areas where live music venues are encouraged or where there are high concentrations of licensed premises or clusters of live music venues.

Implement measures to ensure live music venues can co-exist with nearby residential and other noise sensitive land uses.

Policy guidelines

Consider as relevant:

- The social, economic and cultural benefits to the community of:
 - Retaining an existing live music venue.
 - The development of new live music entertainment venues.
 - Clustering licensed premises and live music venues.

VICTORIA PLANNING PROVISIONS

AMENDMENT VC183

EXPLANATORY REPORT

Who is the Planning Authority?

This amendment has been prepared by the Minister for Planning.

The Minister for Planning is the planning authority for this amendment.

What the amendment does

The amendment introduces a new state planning policy Clause 13.07-3S (Live Music) and makes changes to Clause 53.06 (Live Music Entertainment Venues) of the Victoria Planning Provisions (VPP) and all planning schemes by:

- introducing new state planning policy for live music to recognize the social, economic and cultural benefits of live music and encourage, create and protect opportunities for the enjoyment of live music;
- updating the heading to Clause 53.06 from *Live Music and Entertainment Noise* to *Live music entertainment venues*;
- adding a purpose to Clause 53.06 to encourage the retention of existing and the development of new live music entertainment venues;
- allowing the delineation of areas where live music venues are encouraged and noise sensitive residential development must be carefully evaluated;
- including an application requirement that requires an assessment of the impact of a proposal on the functioning of live music venues; and
- adding new decision guidelines requiring consideration of the social and economic significance of an existing live music entertainment venue and the impact of a proposal on the functioning of live music venues.

Strategic assessment of the amendment

Why is the amendment required?

The live music industry makes a significant contribution to Victoria's social and cultural landscape and its support will benefit all Victorians.

The new state planning policy Clause 13.07-3S (Live Music) and changes to Clause 53.06 (Live Music Entertainment Venues) are required to support Victoria's live music venues which face great challenges because of the impact of Covid19 social distancing restrictions.

The live music industry has been severely affected by measures to limit the spread of Covid19 with venues being forced to close. The impact on musicians, technicians, venue owners and hospitality employees has been significant with many losing employment and income. Covid19 restrictions have increased the prospect of live music venue tenants being evicted and the potential for venues to permanently change to alternate land uses.

How does the amendment implement the objectives of planning in Victoria?

The amendment implements the objectives in section 4 of the *Planning and Environment Act 1987* (the Act).

The introduction of new state policy for Live Music and changes to Clause 53.06 support objectives to:

- to provide for the fair, orderly, economic and sustainable use, and development of land; and
- to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.

The new state policy recognizes the social, economic and cultural benefits of live music and aims to encourage, create and protect opportunities for the enjoyment of live music. In support of this objective the amendment also makes changes to Clause 53.06 to encourage the retention of existing and the development of new live music entertainment venues. These measures include allowing the delineation of areas where live music venues are encouraged and the social and economic significance of an existing live music entertainment venue can be considered. This enables the ready identification of where the potential impact of the noise sensitive residential development on opportunities for live music is managed.

How does the amendment address any environmental, social and economic effects?

The amendment will generate positive environmental, social and economic effects.

The live music industry makes a significant contribution to Victoria's social and cultural landscape. The amendment introduces the ability to consider that contribution and require measures to protect the viability of live music venues from noise sensitive residential uses on a precinct basis.

Does the amendment address relevant bushfire risk?

The amendment will not increase the risk of life, property, community infrastructure and the natural environment from bushfire.

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The amendment complies with all Ministerial Directions issued under section 12 of the Act.

The amendment complies with the *Ministerial Direction on the Form and Content of Planning Schemes* issued under section 7(5) of the Act and makes consequential changes where required.

It also complies with Ministerial Direction 11 Strategic Assessment of Amendments.

How does the amendment support or implement the Planning Policy Framework (PPF)?

The amendment introduces a new state planning policy Clause 13.07-3S (Live Music) to recognize the social, economic and cultural benefits of live music and encourage, create and protect opportunities for the enjoyment of live music. The changes to Clause 53.06 (Live Music Entertainment Venues) assist to implement the new planning policy.

Does the amendment make proper use of the Victoria Planning Provisions?

The amendment makes proper use of the *Victoria Planning Provisions* (VPP) through appropriate PPF and particular provision updates.

How does the amendment address the views of any relevant agency?

The amendment is unlikely to have a significant impact on any relevant agency.

Does the amendment have a significant impact on the transport system, as defined by section 3 of the *Transport Integration Act 2010*?

The Transport Integration Act 2010 recognises that land-use and transport planning are interdependent. The amendment is unlikely to have a significant impact on the transport system as it focuses on live music.

Resource and administrative costs

What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

This amendment will not have a significant impact on the resource use and administrative costs of responsible authorities.

The amendment does not add any additional planning permit triggers and simply enables the consideration of the social, economic and cultural benefits of live music. When planning permit applications for noise sensitive residential uses fall within precincts they may be required undertake an assessment of the impact of the proposal on the functioning of live music venues, however the delineation of precincts is yet to occur. Where precincts are identified the planning scheme will need to be amended and the amendment process will enable relevant planning issues to be ventilated.

Where you may inspect this amendment

A copy of the amendment can be inspected, free of charge, during office hours, at all municipal council offices in Victoria and at the following Department offices:

Barwon South West Region

Geelong office

Level 4
30-38 Lt Malop Street
GEELONG VIC 3220

Barwon South West Region

Warrnambool office

78 Henna Street
WARRNAMBOOL VIC 3280

Gippsland Region

71 Hotham Street
TRARALGON VIC 3844

Grampians Region

Level 3, 402-406 Mair Street
BALLARAT VIC 3350

Hume Region

Level 1, 62 Ovens Street
WANGARATTA VIC 3676

Loddon Mallee Region

Cnr Midland Hwy and Taylor Street
EPSOM VIC 3551

The Amendment is also available for public inspection at www.planning.vic.gov.au/public-inspection