

**VICTORIA PLANNING PROVISIONS  
AMENDMENT VC120  
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 changes the *Victoria Planning Provisions* and all planning schemes by introducing a new particular provision for live music and entertainment noise at Clause 52.43.

**STRATEGIC ASSESSMENT OF THE AMENDMENT**

**Why is the amendment required?**

The Amendment implements the 'agent of change principle' for live music entertainment venues and noise sensitive residential use in their vicinity. It requires an applicant for a live music entertainment venue or a noise sensitive residential use near a venue to include appropriate noise attenuation measures as part of an application for use or buildings and works that requires a planning permit under any zone of a planning scheme.

Clause 52.43 sets out obligations for information to be submitted with an application together with requirements and guidance for decision makers.

A schedule to Clause 52.43 also provides for a responsible authority to tailor the provision to provide for specified exclusions from and expansions of the scope of the Clause. The schedule ensures that suitable venues can be properly protected and that areas with special acoustic controls can be excluded if needed.

Where circumstances warrant a different approach to that set out in Clause 52.43-4, the responsible authority may consider suitable alternative measures.

**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). In particular, it supports the objectives to:

- (a) provide for the fair, orderly, economic and sustainable use, and development of land
- (c) secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- (g) balance the present and future interests of all Victorians.

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

The Amendment properly considers and responds to environmental effects (as set out in section 12(2)(b) of the Act). It will positively impact on urban environments as it will require decision makers to take into account noise effects that the environment might have on a new use or buildings and works for a Live music entertainment venue or Noise sensitive residential use in the vicinity of a venue.

The Amendment addresses the relevant social and economic effects (section 12(2)(c) of the Act) as it will generate a net community benefit by helping to facilitate more liveable dwellings located near live music entertainment venues, while also supporting the music industry.

Acoustic attenuation of a residential use is a capital investment that will often provide wider sustainability and amenity benefits for occupants, including climate protection. Attenuation of noise in residential development would be particularly desirable in locations exposed to noise emissions from different sources.

A properly attenuated venue that employs operating practices that also ease noise emissions will reduce potential for disturbance to the surrounding area and protect the business from any potential future sensitive use or development establishing nearby.

While acoustic attenuation can be costly in some situations, the new provision acts to support already well-established planning practice in assessing proposals vulnerable to noise conflict in and near activity centres and mixed-use environments. That is, in exercising Clause 65 of the planning scheme, responsible authorities are already requiring applicants to respond to noise as part of any new proposal where the existing environment necessitates it.

The noise levels specified for habitable rooms in Clause 52.43 are derived from the *State Environment Protection Policy - Control of Music Noise from Public Premises N2* (SEPP N2) N2, adjusted to be workable in a residential use or development context. By specifying a noise measurement location from inside a closed habitable room, the requirement does not demand a SEPP N2 noise standard for a balcony, private open space or habitable room with open windows and doors. Despite the noise limits specified in Clause 52.43, the general amenity benefited from openable rooms and unencumbered private open spaces can continue to be provided for noise sensitive residential uses.

The current standards set out in SEPP N2 must still be met by venues. The Environment Protection Authority (EPA) is currently reviewing the policy, which is due to be remade in 2016.

## **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 relevant Ministerial Directions issued under section 12 of the Act.

By introducing a new schedule for Clause 52.43, the *Ministerial Direction on the Form and Content of Planning Schemes* issued under section 7(5) of the Act must be amended. Following the introduction of the new schedule, the Amendment will comply with the Direction.

## **How does the amendment support or implement the State Planning Policy Framework (SPPF)?**

The Amendment implements Clauses 13.04-1 - Noise abatement, of the State Planning Policy Framework. It will: *'Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area'*.

The Amendment also implements Clauses 19.02-3 - Cultural facilities, of the State Planning Policy Framework by encouraging *'a wider range of arts, cultural and entertainment facilities including cinemas, restaurants, nightclubs and live theatres, at Principal and Major Activity Centres'*.

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

The Amendment makes proper use of the *Victoria Planning Provisions* (VPP) by:

- using an appropriate VPP tool to achieve strategic objectives. The new particular provision properly gives effect to an intended outcome. The particular provision provides a discrete tool to deal with the matter, targeting a range of zones and defined land uses through a single provision.
- not conflicting with or duplicating other provisions in planning schemes. It instead augments existing provisions in some planning schemes by supporting noise provisions already set out in the decision guidelines of provisions such as the Activity Centre Zone and various schedules to the Docklands Zone and the Capital City Zone.

While the planning scheme is an appropriate means of addressing the amenity issues derived from noise, any changes to the planning system would be complemented by changes in the environment protection system, which sets out noise limits for venues in SEPP N2. Aside for the Docklands area, SEPP N2 does not set out obligations for residential use or development. The EPA review of the policy will consider sensitive use encroachment on music venues with a view to improved alignment with the planning system.

The responsible authority may reduce or waive the requirement if it is satisfied that an alternative measure meets the purpose of the clause.

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

Targeted consultation occurred in relation to the Amendment, where a range of stakeholders were consulted including Music Victoria, EPA, Planning Institute of Australia, Municipal Association of Victoria, Master Builders Association of Victoria, Property Council of Australia, Office of Liquor Gaming and Racing and selected councils.

The concept of the 'agent of change principle' is understood by Music Victoria, EPA, Office of Liquor Gaming and Racing and the Live Music Roundtable - a group established by the State Government and formed by representatives of the music industry, licensees of live music venues, government and the Victoria Police. The Roundtable supports the implementation of the 'agent of change principle'.

The principle is also supported by the *Live Music Taskforce Report and Recommendations (5 December 2003)*. Clause 52.43 will formally implement the principle for live music and entertainment premises, fulfilling the music industry's longstanding wishes.

The noise limits specified for noise sensitive residential use are supported by the EPA.

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

The Amendment will not have a significant impact on the transport system as it focuses on noise issues, unrelated to transport noise.

## **RESOURCE AND ADMINISTRATIVE COSTS**

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

The new particular provision will not introduce any new permit requirements and will therefore not cause any increase in number of planning permit applications. It will instead support decision making where noise amenity impacts are a concern for a live music entertainment venue or a noise sensitive residential use near a venue, typically in or near activity centres and mixed-use environments.

The provision reinforces already well-established planning practice in assessing proposals vulnerable to noise conflict - by requiring a new use or buildings and works in a noisy environment to respond to noise as part of the proposal, with live music noise being the focus of Clause 52.43.

Administrative costs for a responsible authority should either be unchanged or negligible. While the provision sets out added considerations, it is intended to make decision making easier by providing direction and a standard statewide approach.

### **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 offices of the Department of State Development, Business and Innovation (DSDBI):

#### **Barwon South West Region**

##### Geelong office

Level 2, Harrison Place, 237 Ryrie Street  
GEELONG VIC 3220

#### **Barwon South West Region**

##### Warrnambool office

9 Gilles Street  
WARRNAMBOOL VIC 3280

#### **Gippsland Region**

71 Hotham Street  
TRARALGON VIC 3844

#### **Grampians Region**

111 Armstrong Street North  
BALLARAT VIC 3350

#### **Hume Region**

Level 1, 62 Ovens Street  
WANGARATTA VIC 3676

#### **Loddon Mallee Region**

Level 1, 56-60 King Street  
BENDIGO VIC 3550

The Amendment is also available for public inspection at:

[www.dtpli.vic.gov.au/planning/publicinspection](http://www.dtpli.vic.gov.au/planning/publicinspection)