



EXPLANATORY NOTES

STATE ENVIRONMENT PROTECTION POLICY NO. N2 (CONTROL OF MUSIC NOISE FROM PUBLIC PREMISES)

1. Why are controls on music noise from entertainment venues needed?

There have been several significant developments in the entertainment industry that have resulted in increased intrusion into residential areas of noise from music provided by hotels, discos, nightclubs and major outdoor concerts.

Modern popular music is often loud. Consequently noise pollution can occur where residential properties are close to such venues. This has resulted in the Environment Protection Authority receiving around 150 complaints per year from more than 100 indoor and outdoor venues. Furthermore, the number of complaints is increasing each year.

Rock music has been successful in promoting greater patronage at indoor venues such as nightclubs, pubs and discos. The number of places providing entertainment has also expanded as a result of the liberalisation of the liquor Control Act, which has increased the number of

venues where alcohol may be served and has extended trading hours.

The market for outdoor concerts is highly variable. For example in 1987 a relatively large number of

popular overseas artists such as David Bowie, Billy Joel and Michael Jackson, performed in outdoor venues in and

around Melbourne. Over the next few years the number of outdoor concerts dropped to just a handful.

Since the opening of the National Tennis Centre, which is an excellent venue for rock concerts, the demand for use of outdoor venues to accommodate major events has been reduced.

Many of the venues where outdoor concerts are held have traditionally been used for sporting events. Expanding their use to include rock concerts has only become popular over the last ten years.

There have been objections from local residents to such changes, particularly where the noise from rock music has intruded upon their peace and quiet.

2. Purpose of State Environment Protection Policies.

State Environment Protection Policies (SEPPs) set out policies of the Government to control and reduce environmental pollution caused by waste discharges and noise.

State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 sets out the Government's objectives for controlling noise pollution from music produced at indoor and outdoor entertainment venues.

3. Aims

SEPP No. N-2 is aimed at protecting people on their properties and in their homes from unreasonable interference from music from indoor venues such as hotels, discos, public halls and outdoor concert venues.

4. History

A draft policy was released for public comment in 1984 and a large number of comments was received. Subsequently extensive consultations were held with a range of interest groups. The Authority reviewed the Policy in light of these comments, further research and industry consultation to produce the final policy.

5. Overview of Policy

The Policy establishes standards and controls over music noise which balance the right of people living in areas around entertainment venues not to be disturbed by unreasonable levels of music noise, with the right of people seeking musical entertainment at indoor or outdoor venues.

Premises are classified by the Policy into two types:

Indoor venues which include hotels and discos where music is usually played on a regular basis, although the occasional function held in a local public hall is also included; and

Outdoor venues which include sports and other large outdoor arenas that are used for open-air concerts. Such venues are less numerous than indoor venues and operate infrequently.

For indoor venues, no time restrictions are imposed, but different noise limits apply at different hours, with stricter limits at night so that the sleep of nearby residents is not disturbed.

The Policy controls the number of outdoor concerts that can be held in any year, sets noise limits on concerts and fixes the time when concerts must finish.

6. What the Policy contains.

The Policy is divided into five parts and contains two schedules. The following is a brief explanation of the contents of the Policy.

Boundaries of Affected Area (Part I)

The Policy applies throughout the whole of Victoria.

Beneficial Uses and Premises of Application (Part II).

Beneficial Uses (Clause 6).

The Policy aims to protect the beneficial use, sleep in the night time. Stringent night period noise limits are set for indoor venues to ensure that sleep is not disturbed. Outdoor venues are not allowed to operate beyond 11 p.m. after which time people's sleep should not be disturbed by loud music.

At other times, normal domestic and recreational activities are protected from music noise from indoor venues. These included activities such as talking, reading, watching television, listening to the radio and enjoyment of activities such as a backyard barbecue. Outdoor concerts are more intrusive, but occur less frequently. The beneficial use protected during such events is normal conversation. That is, people in a residential area should be able to conduct a normal conversation without raising the level of their voices.

Premises of Application (Clauses 7 to 10).

The Policy applies to existing or potential venues that may conduct concerts, but not music from domestic premises.

Noise other than music may be included in the assessment of noise pollution, such as audience applause and the voice of a “disc-jockey” when these are directly associated with the music.

Noise from patrons leaving or arriving is not controlled by the Policy. This noise may affect residential amenity but is generally better dealt with elsewhere. It may be a consideration in planning decisions or an amenity consideration for the Liquor Licensing Commission for licensed premises. If the control of traffic and serious misbehaviour is involved, the Police should be contacted.

Music produced within a disco or rock concert is normally loud and in some cases there is a risk of hearing damage to staff and patrons due to prolonged exposure to loud music. The Policy does not set standards for hearing conservation purposes.

Mandatory controls of the Policy do not apply to noise from recognised religious observance, such as music during a church service or weddings, or bell ringing. Where

problems arise they will be resolved through negotiation, using the Policy as a guide.

Environmental Quality Objectives and Environmental Indicators (Part III).

Preamble (Clauses 11 to 13).

Environmental quality objectives in this Policy are limits for emission of noise pollution. The limits are chosen to protect the beneficial uses identified earlier (Clause 6).

The Policy defines the environmental indicators, which measure noise pollution, as the “effective noise level”, which is the noise level of music received at the measurement point.

Noise (expressed as the effective noise level) from venues where music is played must not exceed Policy noise limits.

The environmental quality objectives and indicators are different for indoor and outdoor venues.

Indoor venues (Clauses 14 to 16).

Different noise limits are set for the day/evening and night periods because different beneficial uses are protected. A stricter limit is applied for the night period so sleep is not disturbed. During the day/evening period, noise limits are set so that activities such as talking, reading and watching television can occur without undue interference. Both noise limits are based on the level of music above the background noise. Background noise is measured in the absence of music from the venue. The more the level of noise from music exceeds the background the more intrusive and annoying it becomes.

LA90 and LOCT90 are two measures of sound pressure level employed in determining background noise levels. The methods for

measuring L_{A90} and L_{OCT90} are outlined in schedule B of the Policy.

For the day/evening period, noise from music is restricted to the background level plus five decibels [$L_{A90} + 5 \text{ dB (A)}$].

For the night period, noise from music at particular frequencies (octave bands) is restricted to the background level plus eight decibels ($L_{OCT90} + 8 \text{ dB}$). This is a more stringent objective than for the day/evening period because the type of measurement is sensitive to the more intrusive musical frequencies.

When background levels are unusually low, a fixed base level is used to determine objectives. These are given in schedule B3.

No time limits are set on the operation of indoor venues.

Stricter noise limits apply during the night period compared to the day/evening period. The times for the day/evening and night periods vary from day to day and are summarised in schedule A of the Policy. The night period is extended between Sunday and Thursday, and when the frequency of concerts is high, providing a greater degree of protection to the surrounding community.

The indicators used to assess noise from music from entertainment venues are L_{Aeq} for the day/evening period. These are defined in Part V of the Policy.

Outdoor venues (Clauses 17 and 18)

A single noise limit of 65 dB (A) [or 55 dB(A) when the measurement point is located inside a residence] is set by the Policy. This limit is higher than those set for indoor venues because of the different beneficial uses to be protected. However, time restrictions are placed on outdoor concerts which are not applied to indoor venues. These controls recognise that

outdoor concert venues are relatively few in number and are used far less frequently than indoor entertainment venues. The controls also recognise that containment of noise is much more difficult at an open air venue.

The indicator used to measure music noise levels from outdoor venues is L_{Aeq} (see Part V of the Policy for the definition of L_{Aeq}).

Attainment Program (Part IV)

The Attainment Program sets out the program or means by which the Policy goals and objectives will be achieved.

The program also specifies special conditions under which controls set out in the Policy may be varied. Policy controls will be implemented by Noise Control Notices.*

General Provisions (Clauses 19 to 23)

These clauses set out general provisions appropriate to indoor and outdoor venues.

For existing premises, the Policy will be implemented through serving Noise Control Notices*, Minor Works Noise Control Notices* and Notifications of Works*.

Notices are the legal means by which Policy requirements are enforced.

For proposed venues, Policy requirements can be implemented following Notification of Works or incorporation of Policy criteria into permits at the planning stage.

To ensure a cooperative approach to enforcement of controls set out in the Policy, it is important that both EPA and the venue operator are aware of the noise produced by concerts. The EPA can require occupiers to monitor noise from concerts they hold and report them to the Authority. This enables venue operators and EPA to respond promptly and in an informed manner when a problem is identified.

Under special circumstances the minimum Policy requirements may be varied, making them more stringent. This provides the Policy with flexibility to meet special circumstances such as may occur where a community has high expectations in relation to limitation of music noise. It also allows operations to be restricted if compliance with the Policy in the past has been poor.

Indoor Venues (Clause 24 and 25)

The EPA may set slightly higher noise levels during the day/evening period for infrequently operating premises, since the annoyance caused by such a premises is likely to be less than for a premises having music, say, once a week. Restrictions for the night period remain unchanged. This would apply to public buildings like scout halls, which are not normally used for music. The allowance for infrequently operating indoor venues is 3dB(A) above normal noise levels for the day/evening period, provided no more than ten concerts are held a year. This provision recognises that public multiple-use premises are not expected to have the same degree of soundproofing as a dedicated entertainment venue.

Footnote:

* See Environment Protection Act for further details on how these Notices are applied, obligations they place on the occupier and appeal rights.

The EPA may limit the frequency or duration of operations of premises that are unlikely to meet Policy objectives. If a venue cannot meet night period limits through noise abatement measures, the Authority may restrict operations to only the day/evening period, effectively stopping loud music played at night. This step would only be taken after consultation with the venue

management about its plans to reduce their noise pollution.

Outdoor Venues (Clauses 26 to 34)

Time limits, restrictions on noise produced and limits on concert numbers are outlined in the Policy for outdoor venues.

Because concerts at outdoor venues are generally much louder than music noise from indoor venues, a time limit, rather than a noise limit, ensures that music does not cause intrusion during sleeping hours.

Concerts must end by 11 p.m. Concerts of greater than five hours duration must finish by 10 p.m.

Some exemptions are made to the time limit where music cannot be heard in nearby residential areas or where charitable or special non-profit concerts are held, such as disaster-relief or special celebratory concerts.

The occupier of a concert venue often does not arrange the entertainment, this is left to a promoter. It is important that the promoter is made aware of conditions restricting noise pollution from the concerts and that these are complied with.

Only six concerts may be held in any financial year. However, quiet musical entertainment at an outdoor venue, that does not produce noise levels above 55 dB(A) in a noise sensitive area, is not designated as a concert in the Policy. While there are no restrictions on the number of such quiet musical events, they must finish by 11 p.m.

The EPA may allow more than six concerts to be conducted at an outdoor venue in any particular year, provided certain pre-conditions are met and the local municipal council is consulted.

Before extra concerts are approved, an adequate abatement plan needs to have been

prepared. It should address means by which noise levels will be minimised. It may specify, for example, speaker orientation or location, or use of sound barriers around the stadium to reduce noise exposure to residents.

Other considerations which are taken into account by EPA in deciding whether to permit extra concerts are the number of complaints received about concerts at the venue in the previous year. In particular, additional concerts will not be allowed where concerts were excessively loud [above 68 dB(A)] or where more than four concerts in the previous year exceeded 62 dB(A).

Applications for extra concerts will be by a variation of a Noise Control Notice. This requires applications to be with EPA 45 days before the concert. If EPA rejects the application for an extra concert, the decision can be appealed.

The policy is an inappropriate tool to control occasional events on public land and street festivals, such as the Lygon Street Festa. EPA proposes to publish guidelines to control noise from such entertainment events.

Definitions (Part V)

Definition of words used in the Policy are provided in Part V of this document. These assist with the interpretation of the Policy.

Operating periods for indoor venues (Schedule A)

The table in this schedule defines the day/evening and night operating periods for indoor venues. Indoor venues are allowed to operate at all hours, but more restrictive noise limits are placed on these premises during the night period than the day/evening period (Refer to clause 14 of the Policy for details).

The day/evening period is extended on Fridays and Saturdays. The night period (more restrictive noise limits) ends at 9 a.m. or later. More protection is given on Saturday and Sunday mornings.

In the table, the column “Number of Operations Per Week” refers to the number of operations in any particular week, not an average. The range of the night period is extended as the frequency of operations increases.

The table will be incorporated into each Noise Control Notice served on an indoor venue and compliance required with the noise limits for both operating periods determined from the Table. In some cases (for example where soundproofing a building is not feasible) operations may be restricted to the day/evening period if compliance with the night period limits is not possible.

Assessment procedures (Schedule B)

This section of the Policy details technical requirements for assessing noise from music. It specifies things such as when a measurement should be made inside a house rather than outdoors, measurement times and place, background determinations and how measurements should be taken.

Under some circumstances a measurement on a complainant’s property may be difficult due to location or reflective surfaces. Also, if the distance to the noise sensitive area is large, atmospheric effects may make the noise level vary substantially from day to day and even from minute to minute.

To make measurement easier and more consistent, a derived point closer to the source can be set where atmospheric effects play no part. A calculation can then be made to determine the noise received on a complainant’s property.

A guide to other technical considerations when using the Policy is given in an EPA publication, “A Guide to the Measurement and Analysis of Noise”.

The measurement of noise levels outlined in this Policy should be undertaken by acoustic professionals with experience with noise assessments.

EPA Publication N5/90

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