

Established in 1969
by the residents of
South Yarra



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21st August 2003

Live Music Taskforce Secretariat
C/O Mr Ashley Admiraal
Department of Sustainability and Environment
Level 20, 80 Collins Street
Melbourne Victoria 3000.

Live Music Taskforce

Dear Mr Admiraal,

Purpose of This Submission

On behalf of the Coalition of Residents Associations (CORA), this submission is made in response to Elaine Carbin's offer to contribute to the Live Music Taskforce. It adds to the submission made by Richard Wynne, State Member for Richmond in which he discusses issues relevant to resident amenity with respect to the conduct of Live Music.

Residents living in the City of Melbourne, and therefore in the area in which CORA is particularly interested, are affected in the ways described by Richard Wynne. The additional points CORA would like to make are outlined below.

Major Outdoor Concert Venues

Residents need to be heard

CORA believes that the Live Music Taskforce should examine the use of outdoor concert venues such as the Sidney Myer Music Bowl and the Alexandra Gardens. Noise from venues such as these can, and have had, significant impact upon resident amenity.

It is our experience that residents affected by noise from outdoor venues tend to feel that they are personally unable to have any impact upon the conduct of concerts from these venues and just put up with the discomfort. Often, because of the unpredictable timing of concerts, they are caught unaware that a concert will occur until it begins. Residents are therefore off guard and feel that, as individuals, there is nothing they can do.

The EPA needs to take control

CORA believes that in relation to the conduct of outdoor concerts, State Environment Protection Policy No. N2 (SEPP N2) is a reasonable and important policy. But it requires active management and enforcement by EPA Victoria in order to maintain resident amenity and to protect the “beneficial uses” as stated in the policy. Appropriate enforcement cannot occur in this specialized field without the pro-active involvement of EPA Victoria who have the resources to provide independent and accurate acoustic information to all parties.

When parameters such as acoustic noise levels, starting times, stopping times and duration of operation of concerts are used to determine whether a concert is being conducted lawfully, there must be an effective process in place to confirm that the law is being adhered to. For example, local residents should not be confronted with loud music from outdoor venues such as the Sidney Myer Music Bowl starting illegally at 08:00 on New Years Day - and then have to seek a remedy.

The responsible authority should be made public

Identifying the authority with whom to make the complaint is an issue. This has been the case in recent years. In particular, low frequency music that may not be particularly loud but may well compromise the “beneficial uses” and is relatively underrepresented in acoustic noise determinations is particularly disturbing if it continues for long periods of time. Hence limitations on concert durations in SEPP N2.

SEPP N2 states the maximum number of outdoor concerts per venue that can be held each financial year. However there is no limit on the number of “quiet musical entertainment concerts” that can be held. A noise level of 55 dB(A) is described as the level below which a concert must operate in order to be considered “quiet” but there seems to be no structured means to determine whether concerts do in fact operate within the confines of this requirement if they are to be classified as “quiet”. With no formal avenue for a resident to lodge a complaint, control is minimal.

A promoter’s track record must be taken into account

In relation to the success or otherwise of applications for extra concerts at an outdoor venue, reliance is placed upon the “number of complaints received about concerts in the previous year” and the number of concerts that exceeded noise limitations. This raises two questions:

- Is each concert being acoustically assessed in order to determine compliance?
- If not - how can increased numbers of concerts be authorised without the relevant historical information?

We believe that residents should not have to complain to retain their amenity - concert noise emissions should be monitored as a matter of course with immediate feedback to concert promoters and venue operators so that outdoor concerts can be adjusted in real-time both in noise generation and times of operation.

Additionally, a streamlined noise complaints process should be created to afford residents an accessible single point of entry to resolve noise issues. This process must include the ability

for a responsible authority to assess complaints and intervene as necessary - at the time of the concert. It will also provide the data required to assess promoters' applications for future concerts.

Inadequate compliance with the statutory instrument

The New Year's Day related concerts held at the Myer Music Bowl and the Domain are an issue for local residents. Past concerts have been very noisy with low frequency sound being particularly pervasive. Residents asked the Melbourne-South Yarra Group (a constituent of CORA) to pursue the matter.

A mindset that compliance (or close to) is required provided there are complaints, otherwise the required limits can be ignored. Awareness by the concert promoter was inadequate and the venue operator was not driving adherence to the policy limits. The publicly advertised duration of the concert was plainly in excess of the policy, with no exemption having been sought until the residents raised the matter.

Venue operators must take full responsibility for noise

With concerts at major venues there is potential for commercial conflict of interest. Lengthy and loud performances attract more patrons and generate more revenue. Venue operators must be made to take responsibility for regulating noise and ensuring that concerts occurring in their facility are compliant with the SEPP N2. Turning a deaf ear to concert noise by the venue operator should result in withdrawal of right to operate such concerts. Fines are not an adequate deterrent.

The most recent New Years Day concert complied with SEPP N2

Ahead of the most recent concert the Melbourne-South Yarra Group negotiated with the events manager from the Victorian Arts Centre and with officers of EPA Victoria to agree on noise control measures for this event. There was some improvement in the adherence to the SEPP N2 but only after insistence by the Melbourne-South Yarra Group that the conduct of the concert was brought into line with the statutory instrument (SEPP N2) that all entities, private or public, must comply with.

A more satisfactory outcome was achieved because the concert was monitored by the EPA to ensure that noise remained at or below the level legislated for this type of event. Legislated time periods for live music concerts were also largely adhered to however there should be some stricter attention applied to the provision of exemptions to allow a concert to be prolonged on the basis of it being a "special celebratory event". A concert with a duration of 14 hours should conclude at the 22:00 and not be given a time extension as occurred on this occasion.

The most recent New Years Eve concert did not comply with SEPP N2

The concert held on New Years' Eve at the Alexandra Gardens was not monitored in the same way and noise from live bands at that concert were disruptive for residents in the area. The

absence of adherence to SEPP N2 in this case caused interruption to the “beneficial uses” on this occasion (sleep).

Summary of this section

In summary, outdoor concerts should be monitored as they take place. Monitoring should be carried out by competent and independent sound analysts and the results retained. Venue operators and promoters should be forced to comply with SEPP N2 or risk removal of the right to operate concerts.

Events at Local Hotels and Nightclubs

The fact that residents came to the area first must be recognised

Hotels and clubs playing amplified music whether it is live or recorded in residential areas are able to create noise problems. The low frequency thumping that seems to characterise live music from these venues is intrusive and unwelcome, particularly after 10.00 p.m. Unlike parts of the inner city, live music venues have come to the area well after the majority of residences were built (many in the 1800s). Retrofitting of period properties with noise attenuation materials is simply not economically feasible in the majority of circumstances. Reliance is placed upon strict adherence to SEPP N2 in order to preserve the “beneficial uses”.

Again, monitoring and prosecution is the only way to ensure that residents are not improperly affected by loud music from such venues. It is this process that deserves refinement.

General anti-social behaviour needs to be addressed

The local experience is that live music venues create more than a music noise nuisance. People attend the venues to have a good time but for some this means consuming excessive amounts of alcohol. The behaviour associated with these people leaving the venues can only be described as anti-social. Damaged car aerials and mirrors, broken bottles, bad language, urinating in gardens, slamming of car doors are examples of this behaviour.

Of course these complaints can be directed at all venues that sell alcohol. But in many instances live music is designed to attract excessively large numbers of patrons. The effect is that on top of the unwanted music noise, residents near a venue have to put up with large numbers of people behaving badly.

Other Events

Residents need to know how to lodge a complaint

There have been some minor issues in the area associated with events run by secondary schools or by businesses holding parties in local parks. The instances that come to mind are

isolated but they exemplify the issues that arise when live bands are engaged to play in residential areas.

One school correctly followed the procedure (notifying the nearby residents, directing loudspeakers away from houses etc.) but it was clear from the live band noise level that the organisers were unable to police the 65dB(A) noise level. A similar example occurred in Fawkner Park where loud live music continued well past the time advised to local residents. A resident complained to the organiser, who was at the party, but was ignored.

Task Force Examination

From its local experience, CORA wishes to comment on two of the four terms of reference for the Taskforce:

The effectiveness of current legislation

We are familiar with Victorian legislation covering “Control of Music Noise from Public Premises” (See Victorian Government Gazette No. S 43). The legislation has adequately covered the occasions where the “rules” surrounding live music needed to be consulted. The legislation has not been a problem to us.

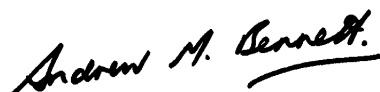
Examples of how noise policies have been working

The above information demonstrates, we believe, that the issues are not to do with the rules but rather with *enforcement* of the rules. In general we have found that it is quite difficult to get someone to take responsibility for enforcement. Permits for live music events that specify noise limits, and the times when this noise is allowed, seem to depend on the good will of venue organisers to impose the limits. There appears to be an assumption that venue operators and promoters will self-regulate. This has not been our experience.

The police appear reluctant to get involved. They have a responsibility to deal with nuisance noise but are only able to make very subjective judgements about noise levels because they lack the training and equipment. EPA Victoria has the training and equipment to assess noise levels but not the staff numbers to deal with problems after hours.

The end result is that residents living near large live music venues suffer excessive noise levels without proof that anything untoward has occurred. CORA would like to see this situation changed.

Yours faithfully,



Andrew Bennett

President MSYG

On behalf of the Coalition of Residents Associations.