



MEETING OF THE PORT PHILLIP CITY COUNCIL

AGENDA

1 MAY 2024



Please consider
the environment
before printing



Consider carefully how
the information in this
document is transmitted

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



Welcome

Welcome to this Meeting of the Port Phillip City Council.

Council Meetings are an important way to ensure that your democratically elected representatives are working for you in a fair and transparent way. They also allow the public to be involved in the decision-making process of Council.

About this meeting

There are a few things to know about tonight's meeting. The first page of tonight's Agenda itemises all the different parts to the meeting. Some of the items are administrative and are required by law. In the agenda you will also find a list of all the items to be discussed this evening.

Each report is written by a Council officer outlining the purpose of the report, all relevant information and a recommendation. Council will consider the report and either accept the recommendation or make amendments to it. All decisions of Council are adopted if they receive a majority vote from the Councillors present at the meeting.

Public Question Time and Submissions

Provision is made at the beginning of the meeting for general question time from members of the public.

All contributions from the public will be heard at the start of the meeting during the agenda item 'Public Questions and Submissions.' Members of the public have the option to either participate in person or join the meeting virtually via Teams to ask their questions live during the meeting.

If you would like to address the Council and /or ask a question on any of the items being discussed, please submit a 'Request to Speak form' by 4pm on the day of the meeting via Council's website:

[Request to speak at a Council meeting - City of Port Phillip](#)



MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



MEETING OF THE PORT PHILLIP CITY COUNCIL

To Councillors

Notice is hereby given that a **Meeting of the Port Phillip City Council** will be held in **St Kilda Town Hall and Virtually via Teams** on **Wednesday, 1 May 2024 at 6:30pm**. At their discretion, Councillors may suspend the meeting for short breaks as required.

AGENDA

- 1 **APOLOGIES**
- 2 **MINUTES OF PREVIOUS MEETINGS**
Minutes of the Meeting of the Port Phillip City Council 17 April 2024.
- 3 **DECLARATIONS OF CONFLICTS OF INTEREST**
- 4 **PUBLIC QUESTION TIME AND SUBMISSIONS**
- 5 **COUNCILLOR QUESTION TIME**
- 6 **SEALING SCHEDULE**
Nil
- 7 **PETITIONS AND JOINT LETTERS**
7.1 Joint Petition: Stop the loss of Car parking on Inkerman Street - Inkerman Street Safety Improvement Project.....5
- 8 **PRESENTATION OF CEO REPORT**
Nil
- 9 **INCLUSIVE PORT PHILLIP**
9.1 Draft Port Phillip Reconciliation Action Plan 3 11
- 10 **LIVEABLE PORT PHILLIP**
10.1 Proposed Amendment C220port: St Kilda Live Music Precinct - Authorisation47
- 11 **SUSTAINABLE PORT PHILLIP**
11.1 Community Electric Vehicle (EV) Program467
- 12 **VIBRANT PORT PHILLIP**
Nil

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



13 WELL GOVERNED PORT PHILLIP

- 13.1 *Information Protection Agreement - Department of Transport and Planning (VicRoads).....511*
- 13.2 *Policy Completion Dates.....531*
- 13.3 *Lifting of the confidentiality status of information considered by Council in closed meetings of Council.....535*

14 NOTICES OF MOTION

Nil.

15 REPORTS BY COUNCILLOR DELEGATES

16 URGENT BUSINESS

17 CONFIDENTIAL MATTERS545

The information contained in the following Council reports is considered to be Confidential Information in accordance with Section 3 of the Local Government Act 2020.

17.1 *St Kilda Pier Landside Works Upgrade - Budget Update*

- 3(1)(a) *Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.*

Reason: *The information provided within this briefing contains detailed information on:*

- *Approach for project contingency*
- *Approach for project Soil contamination*
- *The procurement approach for the project, including ways to mitigate a failed procurement.*

Releasing this information would reduce Council's negotiation stance if information is released prior to procurement, in October 2024.

17.2 *Commercial Matter*

- 3(1)(a) *Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.*

- 3(1)(e) *legal privileged information, being information to which legal professional privilege or client legal privilege applies;*

- 3(1)(g)(ii) *private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage*

Reason: *This report will consider commercially and legally sensitive information that could impact Council's ability to manage an ongoing contract. Council will consider what information is to be released publicly.*



3. DECLARATIONS OF CONFLICTS OF INTEREST

4. PUBLIC QUESTION TIME AND SUBMISSIONS

5. COUNCILLOR QUESTION TIME

6. SEALING SCHEDULE

Nil

7. PETITIONS AND JOINT LETTERS

*7.1 Joint Petition: Stop the loss of Car parking on Inkerman Street - Inkerman Street
Safety Improvement Project.....5*

MEETING OF THE PORT PHILLIP CITY COUNCIL 1 MAY 2024



7.1 Joint Petition: Stop the loss of Car parking on Inkerman Street - Inkerman Street Safety Improvement Project

Two petitions were received in relation to the Inkerman Safety Improvement Project.

Petition 1: **Petition: Stop the destruction of Inkerman Street Community** (containing 358 signatures was received via change.org)

The Petition states the following:-

Dear St. Kilda Locals, Traders and Visitors.

City of Port Phillip Council are proposing to remove 115 car parks on Inkerman Street - affecting all the businesses and communities access.

It will also push traffic into our quiet surrounding neighbourhood streets.

STOP the destruction now.

SAY NO TO THE PERMANENT LOSS OF CAR PARKS ON INKERMAN STREET, ST KILDA

Petition 2: **Petition against any parking loss in Inkerman Street** (containing 166 hardcopy signatures from residents, businesses, and their customers)

The Petition states the following:-

*We the undersigned, as residents/ratepayers and businesses/services and their customers/patrons, who will be severely adversely affected by the INKERMAN SAFETY IMPROVEMENT PROJECT **do not want any loss** of parking bays in Inkerman Street.*

Supporting Information

Please find enclosed a petition against any parking loss in Inkerman Street.

525 stakeholders have signed the petition joint for the reasons outlined below -

*The project is **ill conceived and unrealistic** for a major street in an inner city suburb. **Parking is already at a premium.***

Those wishing to park on Inkerman Street already often have to park in the side streets. If car parks are removed, those streets will be permanently parked out. In an effort to find that ever elusive park, stressed, frustrated drivers will resort to risk taking.

Parking will become cut throat and dangerous - as happens in Alma Road by the park, where the south side of the road is permit only, so drivers will do a u turn in front of oncoming cars to grab the only car park on the north side.

Residents - owners and tenants, will struggle to park anywhere near their properties.

Unloading a vehicle of groceries, small children, large heavy items, or from a camping trip would become very arduous from a block away from home.

37 Businesses/Services and their customers/clients will struggle to park anywhere near those properties. Many Businesses/Services have said they will not survive without close by on-street parking.

The elderly, the disabled, or impaired walkers will have great difficulty accessing residences or services. There are several medical clinics and health services as well as the PCYC gym (rehab clients) that rely on on-street parking for their patients and members.

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



Women returning home late at night may have to negotiate side streets to walk from their car to home. This presents real safety issue concerns.

As well as the severely adversely affected stakeholders mentioned above, anyone else who needs to access properties will not be able to park.

These would include -

*Regular care giving and home help staff, tradesmen, cleaners, deliveries and pickups, removalists, family and friends who **already struggle to get a park close by**. Severely reducing car space in Inkerman Street is going to make the current situation much worse. It would be a major destruction of liveability in the neighbourhood.*

The Inkerman Street community do not want their access and amenity stripped from them. It will make life that much harder.

OFFICER COMMENT

Officers note that Community Consultation was undertaken for this project over a 7-week period ending in December 2023 and that the results of the engagement were tabled at the 23 March 2024 Council meeting. A subsequent report will consider how to proceed with the project.

RECOMMENDATION

That Council:

1. Receives and notes both Petitions.
2. Thanks their petitioners for their petitions.
3. Notes that a report on the Inkerman Safety Improvement Project will be considered by Council at an upcoming Council meeting to determine how to proceed with the project, and that the petition will be noted within that report.

ATTACHMENTS

Nil



8. PRESENTATION OF CEO REPORT

Nil

9. INCLUSIVE PORT PHILLIP

9.1 *Draft Port Phillip Reconciliation Action Plan 3* 11

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



9.1 DRAFT PORT PHILLIP RECONCILIATION ACTION PLAN 3

EXECUTIVE MEMBER: TARNYA MCKENZIE, INTERIM GENERAL MANAGER,
COMMUNITY WELLBEING AND INCLUSION

PREPARED BY: TANJA HEIL, COORDINATOR HOUSING, SAFETY AND
RECONCILIATION
MAGGIE SMITH, ABORIGINAL GATHERING AND DEVELOPMENT
ADVISOR

1. PURPOSE

- 1.1 For Council to consider the consultation draft Reconciliation Action Plan 3 (RAP3) and endorse its release for community consultation.

2. EXECUTIVE SUMMARY

- 2.1 RAP3 will be a key strategy providing a vision for Council, as an organisation committed to reconciliation and driven to foster relationships, trust, respect, and opportunities for First People in a setting that is culturally safe.
- 2.2 The preparation of the draft plan has followed preliminary discussion with Traditional Owners and First Peoples service providers and local members of the aboriginal community. Review and input has also been provided through internal consultation with Council's established RAP Working Group, a review of Council's 'Reconciliation Barometer' (2019), Council's RAP2 (2021) and 'Exploration of Gathering for the Aboriginal Community Report' (2021).
- 2.3 The vision, key themes, and actions in the draft RAP3 have been prepared to align with the template and structure provided by Reconciliation Australia and will require further review and consideration prior to their certification.
- 2.4 It is proposed Council endorse the consultation draft Reconciliation Action Plan 3 to enable broader community consultation, input, and response prior to considering a report in mid-2024 for its adoption.

3. RECOMMENDATION

That Council:

- 3.1 Releases the draft Port Phillip Reconciliation Action Plan 3 (Attachment 1) for a 4-week period of community consultation from 2 May to 30 May 2024.
- 3.2 Notes that a report will be presented to Council in July 2024 outlining feedback received through the consultation period and any proposed changes to the plan.

4. KEY POINTS/ISSUES

- 4.1 Aboriginal people have faced profound historic and contemporary challenges which include land dispossession, violence, and racism.
- 4.2 Port Phillip Council has a history of providing strong leadership in reconciliation and the formal acknowledgment of challenges that impact First Nations people. We have sustained efforts and been active in driving change through reconciliation from our initial RAP1 (2012 – 2015) and subsequent RAP2 (2017-19 extended and expired in 2021).



- 4.3 Council's last Reconciliation Action Plan expired in 2019 and was extended to 2021. The period of 2020 to 2023 presented a number of challenges that further impacted the progression of our third RAP. These have included:
- 4.3.1 A focus on recovery efforts and engagement with vulnerable First Peoples during and following COVID-19
 - 4.3.2 New relations with traditional owner groups following the Victorian Heritage Council decision in June 2021 to name the Bunurong Land Council and the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation as Registered Aboriginal Parties and a change to traditional boundaries that apply to our city.
 - 4.3.3 Supporting long and established relationships with the local Boonwurrung Land and Sea Council.
 - 4.3.4 Allowing time for the National Voice Referendum 2023 to occur outside of local policy development.

Development of Draft Reconciliation Action Plan 3

- 4.4 A consultation draft Port Phillip Reconciliation Action Plan 3 (Attachment 1) has been prepared by Council officers. The process to prepare the plan has included:
- 4.4.1 A review of Council's 'Reconciliation Barometer' (2019) a survey of 563 residents.
 - 4.4.2 The evaluation of Council's RAP2 (2021).
 - 4.4.3 Referencing the 'Exploration of Gathering for the Aboriginal Community Report' (2021).
 - 4.4.4 Engaging key internal staff through working sessions in November 2023. Participants included the internal RAP Working Group and key staff from across all divisions in the organisation.
 - 4.4.5 Reviewing and drafting RAP3 to align with the required template and structure provided by Reconciliation Australia.
 - 4.4.6 Initial engagement through February and early March 2024 with Traditional Owners, First Peoples community service providers, stakeholders, and local aboriginal communities.

5. CONSULTATION AND STAKEHOLDERS

Reconciliation Australia

- 5.1 Reconciliation Australia is acknowledged as the national expert body on Reconciliation. They offer a structure and procedure for the approval of Reconciliation Action Plans (RAPs). In seeking the plans future endorsement, officers have worked with Reconciliation Australia to adopt a suitable template. Further review will be required by Reconciliation Australia as part of their formal certification process.

Engagement Approach

- 5.2 Critical to the success of RAP3 delivery, and in enabling self-determination and voice by local First People, it has been integral to work closely with our Aboriginal communities and Traditional Owners prior to seeking broader community feedback on a draft plan.

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



- 5.3 Initial engagement with First Peoples was conducted through February and early March 2024. This included initial discussions and consultations with:
 - 5.3.1 Local Traditional Owners the Boonwurrung Land and Sea Council
 - 5.3.2 The two Traditional Owner / Registered Aboriginal Parties, the Bunurong Land Council and the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation
 - 5.3.3 First Peoples Community Service Providers and Stakeholders, including Access Health, Sacred Heart Mission, Launch Housing, Victoria Policy, Policy and Citizens Youth Club (PCYC) and Port Phillip Citizens for Reconciliation.
 - 5.3.4 Local aboriginal communities and elders (through First Peoples Community Service Providers).
- 5.4 Key issues and actions raised through these discussions have been reflected in the draft RAP3. Notably these include:
 - 5.4.1 The diversity of our First Peoples community in Port Phillip.
 - 5.4.2 The need to continue efforts to build trust and support self-determination by providing culturally safe platforms within Council that enables First Peoples voice.
 - 5.4.3 Complexities following the Victorian Aboriginal Heritage Council (VAHC) decision in July 2021, and Council requirements to engage with Registered Aboriginal parties while maintaining enduring reconciliation efforts and connections with local Traditional Owners.
 - 5.4.4 Recognition of First Peoples perspectives and experience and providing opportunities for interpretation of shared history in settings.
 - 5.4.5 Continuing to provide culturally appropriate support and coordination to improve outcomes for at risk individuals in our community.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 With the Victorian Aboriginal Heritage Council (VAHC) decision in July 2021, Council is mandated under the Aboriginal Heritage Act 2006 to engage with the Bunurong Land Council and the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation on the management and protection of Aboriginal Cultural Heritage.
- 6.2 Council has focused on building relationships with the two formally recognised Registered Aboriginal Parties while working upon supporting our enduring commitment to the Boonwurrung Land and Sea Council
- 6.3 To meet legal requirements, all actions within RAP3 that involve Registered Aboriginal Parties will identify the Bunurong Land Council and Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation. Concurrently, we will continue to partner, consult, and engage with the local Traditional Owners, the Boonwurrung Land and Sea Council.

7. FINANCIAL IMPACT

- 7.1 The development of RAP3 will not impact existing budgets. Actions are generally aligned to Council's service delivery commitments and existing operational costs. Opportunities that arise for Council during the RAP delivery period will go through Council's annual budgetary processes for consideration.



8. ENVIRONMENTAL IMPACT

- 8.1 Actions referenced in the draft consultation materials include connection and care for Country using cultural management practices and approaches. It is hoped with the delivery of RAP3 through the RAP Working Group, opportunities will enable all members of our community to participate in protecting, restoring, or enhancing indigenous landscapes and watercourses, and where relevant through project partners.

9. COMMUNITY IMPACT

- 9.1 Reconciliation Action Plans are instrumental in enhancing equality and community cohesion and are a central strategy for articulating our respect for Aboriginal and First People.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 The development of RAP3 aligns with Council Plan directions:
- 10.1.1 Inclusive: A city that is a place for all members of our community, where people feel supported and comfortable being themselves and expressing their identities.
- 10.2 Council does not have a current plan to guide reconciliation efforts, with RAP2 having expired in 2021. To address the gap in Council's policy suite, it is integral a new plan be prepared and that it addresses the current context. Council further resolved and reinforced its '*commitment to develop reconciliation Action Plan 3*' at the 4 October 2023 Council Meeting

11. IMPLEMENTATION STRATEGY

TIMELINE

- 11.1 Officer will seek broader community feedback on the draft Port Phillip Reconciliation Action Plan 3 for a 4-week period between the 1 May 2024 – 30 May 2024. This will include:
- 11.1.1 Send copies of the draft plan to Traditional Owners, First Peoples Stakeholders and Service Providers inviting feedback and providing opportunity to meet with Council officers to provide feedback and response.
 - 11.1.2 Promoting the draft Plan on Council's Have Your Say website and providing hard copies at Council's Assist counters and libraries.
 - 11.1.3 Using the scheduled Neighbourhood Engagement Sessions through this period to promote the draft Plan and seek opportunities for feedback.
- 11.2 Through this period officers will continue to seek endorsement of RAP3 from Reconciliation Australia.
- 11.3 Following broader public comment and response, a summary of key issues raised and officer recommendations for revisions will be presented to Council for consideration.

COMMUNICATION

Key Messages

- 11.4 The following key messages have been prepared for the pending consultation period:
- 11.4.1 Following initial consultation with First Peoples, Council has developed a draft Reconciliation Action Plan 3 (RAP3).

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



11.4.2 The development of the draft RAP3 marks a significant milestone in our reconciliation journey. Since the launch of our inaugural plan in 2012, RAP3 will be Council's third Reconciliation Action Plan. RAP3 will be an important strategy for Council in fostering inclusion and self-determination. It will serve as a guiding framework for our actions and ongoing steps toward reconciliation.

11.4.3 We are inviting broader community feedback on the proposed plan. After considering feedback, we will address raised issues and engage in further discussions with Traditional Owners and First Peoples in our community.

11.4.4 A final report, incorporating community input and feedback provided by Traditional Owners and First Peoples in our community will be presented to the Council in July 2024.

12. OFFICER DIRECT OR INDIRECT INTEREST

12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

ATTACHMENTS 1. Consultation Draft Reconciliation Action Plan 3  



Innovate Reconciliation Action Plan 3

Consultation Draft (April 2024)
2025-2028



RECONCILIATION
AUSTRALIA LOGO

portphillip.vic.gov.au



Innovate Reconciliation Action Plan 3

proudly port phillip



City of Port Phillip

99a Carlisle Street
St Kilda VIC 3182

Phone: **ASSIST** 03 9209 6777

Email: portphillip.vic.gov.au/contact-us

Website: portphillip.vic.gov.au

Acknowledgement of Country

Council respectfully acknowledges the Traditional Owners and Custodians of the Kulin Nation. We acknowledge their legacy and spiritual connection to the land and waterways across the City of Port Phillip and pay our heartfelt respect to their Elders, past, present and future.

Cover Image: Josh Deane, 2024



National Relay Service

If you are deaf or have a hearing or speech impairment, you can phone us through the National Relay Service (NRS):

TTY users, dial 133677, ask for 03 9209 6777

Voice Relay users, phone 1300 555 727,

then ask for 03 9209 6777.

Terminology

Aboriginal - refers to the Indigenous people of Australia

Boonwurrung - Name of a Traditional Owner group of the City of Port Phillip

Bunurong - Name of a Traditional Owner group of the City of Port Phillip

Cultural Safety - An environment that is safe for people: where there is no assault, challenge or denial of their identity, of who they are and what they need. It is about shared respect, shared meaning, shared knowledge and experience, of learning, living and working together with dignity and truly listening ¹

Kulin Nations - Make up five communities of Traditional Owners across south central Victoria

Naarm - Traditional word for the City of Melbourne which is located on Wurundjeri Woi Wurrung land

Nerm - Traditional word for Port Phillip Bay from the Boonwurrung People who are one group of Traditional Owners of Port Phillip

Ngargee - Boonwurrung word for 'gathering for celebration'

Registered Aboriginal Party - are Traditional Owner Groups legal recognised under the [Aboriginal Heritage Act 2006](#) to provide advice on matters relating to Aboriginal places or Aboriginal objects in their region

Self Determination - An ongoing process of choice to ensure that Aboriginal people are able to meet their social, cultural and economic needs. Essential to the exercise of self-determination is choice, participation and control.

Traditional Owners - Bunurong, Boonwurrung and Wurundjeri refer to the Traditional Owners and Custodians of the land across the City of Port Phillip. Bunurong, Boonwurrung and Wurundjeri people are part of the wider Kulin Nation

WeAkon Dillinja - Boonwurrung words meaning 'A Mourning Reflection'

Wurundjeri Woi Wurrung - Name of a Traditional Owner group of the City of Port Phillip

Yalikut Willam - Traditional word from Kulin group of languages (Boonwurrung, Woi Wurrung and Daung wurrung) meaning 'river dwellers' which is associated with the coastal land of Port Phillip Bay, Werribee River, across to Williamstown, Port Melbourne, St Kilda and Prahran

¹ [Williams, R \(2008\) Cultural safety: what does it mean for our work practice?](#)

Innovate Reconciliation Action Plan 3

proudly port phillip

Mayor's message

To be provided in final plan

Innovate Reconciliation Action Plan 3

proudly port phillip

Innovate Reconciliation Action Plan 3

Responsible service/department:

Community Wellbeing and Inclusion

Adoption authorised:

Council

Date of adoption:

[Insert Text]

Date effective from:

July 2024

Document set ID (ECM):

[Insert Text]

Subject (index name in ECM):

[Insert Text]

Endorsed CEO or ELT member or department manager to make and approve document editorial amendments:

[Insert Text]

Annual desktop review date:

[Insert Text]

Review date:

[Insert Text]

Completion date:

[Insert Text]

Version number:

[Insert Text]

Stakeholder review and engagement:

[Insert Text]

Relevant legislation:

Local Government Act 2020

Innovate Reconciliation Action Plan 3

proudly port phillip

Associated strategic direction #:

[Insert Text]

Associated instruments:

[Insert Text]

Supersedes:

[Insert Text]

Review history:

Name	Document set ID (ECM)	Date	Description of edits
Name of document	#	DD/MM/YYYY	Description of changes

Table of contents

Our vision for reconciliation 8

Our business..... 9

Our city 10

Our Reconciliation Action Plan 3..... 11

Relationships 13

Respect 16

Opportunities 22

Governance 24

Our vision for reconciliation

The City of Port Phillip has a vision for a community that fully embraces our local living cultures. We celebrate the vibrant tapestry of shared and diverse cultural connections to our city. The Council's vision for reconciliation is to be an inclusive organisation that supports the cultural diversity of the residents living across Port Phillip.

Our commitment to reconciliation is about coming together. It centres on strengthening enduring connections with Traditional Owner groups and the Aboriginal and Torres Strait Islander communities linked to the contemporary footprint of our city. We strive to provide our communities with opportunities for self-determination and a voice.

We strongly support First Peoples' inherent right to self-determination and are deeply committed to the actions in this Reconciliation Action Plan. We will implement these actions in ways that are consistent with the expertise and ambitions of First Peoples and our key partners and stakeholders.

With sincere empathy, we acknowledge the harmful impacts of colonisation upon First Peoples. We recognise the reverberating, multifaceted impacts that First Peoples face and understand that these harms can be far-reaching and intergenerational, as a result of past laws, policies, systems and structures. This systemic and structural racism has normalised the exclusion and disempowerment of First Peoples and ultimately denied their human right to self-determination.

This Reconciliation Action Plan represents the Council's continued commitment to support meaningful and mutually beneficial relationships with First Peoples in Port Phillip. Meaningful relationships are the key to building and delivering a culturally appropriate and responsive service and enhance accountability and transparency to Bunurong, Boonwurrung and Wurundjeri people and all First Peoples.

In our efforts to evaluate our previous Reconciliation Action Plan, we have contemplated ways to enhance relationships, foster respect and create opportunities for First Peoples. With direct consultation with Traditional Owners, we know we can improve how we embed reconciliation through our core business. We are on a journey of continual growth and will address the evolving needs of Port Phillip's First Peoples, ensuring their experiences with Council's services and facilities are positive.

We will take action to support our community to foster meaningful relationships, provide opportunities for local gatherings, enhance our cultural awareness and cultural safety, encourage leadership and support opportunities for self-determination.

Our business

Under the [Victorian Local Government Act 2020](#), the role of council is to provide good governance for the benefit and well-being of its community. [Our Council Plan](#) defines our key organisational priorities. At the heart of this plan, we strive to build a community with strong social connections – where everyone can feel safe and welcome.

This includes engaging the community in planning and decision-making. We work in partnership with all levels of government, the private sector, not-for-profit entities and our local communities.

Our organisation employs around 1000 people, including 4 identified Aboriginal and Torres Strait Islander roles. We deliver more than 100 programs and services to our residents, businesses and visitors. These range from early childhood education and care services and libraries to the management of parks and maintenance of public spaces.

At the core of our work with First peoples in Port Phillip is regular engagement with the Traditional Owners and Aboriginal Community Controlled organisations to provide culturally safe services to improve conditions for local communities, by developing and consulting on strategies that deliver cultural programs as part of our continuing journey towards reconciliation.

Some of our current reconciliation actions include:

- Undergoing recognition activities (e.g., place naming and Acknowledging Country)
- Creating cultural expression and gathering opportunities (e.g., events, activities, commissioning, cultural teaching and community gatherings)
- Delivering coordinated support services (e.g., aged care and housing and homelessness outreach)
- Providing youth services (e.g., sponsoring early childhood services and school programs).

Our city

With 11 km of foreshore, the City of Port Phillip is in many ways defined by its proximity to Nerm (Port Phillip Bay). This sacred place is part of the Kulin Nation – a large region spanning from the southernmost point of Victoria up into the Great Dividing Range. The area we now call our city has been home to Bunurong, Boonwurrung and Wurundjeri people for over 55,000 years. First Peoples have and continue to care for Country in our city council area for generations.

Attracting almost three million visitors a year, Port Phillip is one of the most visited places in Melbourne (Naarm). The local area has changed vastly since European occupation, but it was once akin to a 'temperate Kakadu' type of environment, surrounded by sea, river, creeks, lakes and lagoons. Between the sea and the river was a score of wetlands surrounded by dunes, heath, woodlands, salt marsh and beach.² Our municipality is one of the oldest European settlements in Naarm. It provides a juxtaposition of unique urban villages and heritage buildings, cultural diversity and arts, as well as the foreshore and open spaces.

Several sites of interest in Port Phillip are significant to First Peoples. In St Kilda, the Ngargee Tree, a River Red Gum, is located in the southeast corner of Albert Park, between Albert Park Lake and Fitzroy Street at St Kilda Junction. It is Port Phillip's longest living resident, with an estimated age of 300-500 years. The tree marks a junction of pre-European walking trails, where tracks connected to southern, northern and eastern districts. St Kilda Town Hall sits on a natural spring that was once frequented by Boonwurrung people. Also in St Kilda was Euro-Yroke, which means the 'grinding stone place'.

The Esplanade, where our weekend markets take place, was once a stone quarry. Stone axes were a highly valued tool, used by Boonwurrung men to cut bark for housing, canoes and containers. Emerald Hill, now the site of South Melbourne Town Hall, was a significant site to engage in ceremonies and trade. Boonwurrung people met at this permanently cleared site every three months and conducted ceremony on full and new moons.

With its close proximity to the city centre, Port Phillip is an area in high demand. The physical environment is continuing to change as the area experiences significant residential growth and development. Port Phillip has an estimated resident population of 103,990. The population of Port Phillip residents identifying as Aboriginal and Torres Strait Islander is 514, with many Aboriginal and Torres Strait Islander people living in St Kilda, South Melbourne and Port Melbourne.

² Eidelson 2016 Yalukit Willam, The River People of Port Phillip by Meyer Eidelson; City of Port Phillip

Our Reconciliation Action Plan 3

We have come a long way on our reconciliation journey since launching our first Reconciliation Action Plan in 2012. This new Innovate Reconciliation Action Plan builds on our second Reconciliation Action Plan 2017-2019, the Gathering Place Report, and extensive community consultation, through the Attitudes to Reconciliation Barometer Survey 2019. The themes emerging from our evaluation and reflections provide the basis for our new and improved actions. Our actions follow the structure of the key pillars in the Reconciliation Australia's Innovation Framework and is aligned with the [Victorian Aboriginal Affairs Framework 2021-2023](#).

We believe that reconciliation should be embedded in everyday business at the City of Port Phillip. Our third Reconciliation Action Plan sets out the steps we will take to advance those things we do well and, improve our services to support Aboriginal and Torres Strait Islander residents.

We continue to prioritise achieving better outcomes for First Peoples living in Port Phillip by following the lead, expertise and solutions of First Peoples themselves. By respecting the expertise of First Peoples and working together in good faith, we hope to foster strong relationships and contribute to their self-determination.

Underpinning our actions in our Innovate Reconciliation Action Plan are:

- Improving the accessibility, cultural safety and responsiveness of Council services for First Peoples living in the City of Port Phillip
- Putting the voices of First Peoples at the heart of our future service design and performance, and embedding their lived experiences and expertise in our work
- Deepening our understanding of self-determination and embedding it in our everyday practice – a process that will be led by Aboriginal and Torres Strait Islander staff and community members.

Meaningful relationships, mutual respect and collaborative opportunities underpin the actions in our Innovate Reconciliation Action Plan. This means:

- **Relationships** – Fostering relationships with Aboriginal and Torres Strait Islander stakeholders and organisations, engaging with Aboriginal leaders and making space for youth voices. We will maintain and build partnerships, while promoting reconciliation through our organisation, community and networks.
 - i) Building trust is at the core of strong relationships with Aboriginal and Torres Strait Islander communities and Aboriginal Community Controlled organisations. These relationships are vital to our position of supporting self-determination for First Peoples.
 - ii) We seek to continue to strengthen our relationship with Bunurong, Boonwurrung and Wurundjeri people, and be led by their perspectives on appropriate service delivery and policy priorities impacting their communities. We endeavour to expand the breadth of our relationships, including those with Aboriginal Community Controlled Organisations, to support a more holistic service delivery model for First Peoples in our city.

- **Respect** – Maintaining cultural protocols and celebrating and protecting cultural heritage. We will strengthen our cultural understanding and awareness by participating in and observing days of significance for Aboriginal and Torres Strait Islander people. We will ensure our services continue to support and strengthen Aboriginal and Torres Strait Islander communities.
 - i) The foundations of respect will be built, maintained and strengthened through education around cultural safety, focusing on the richness and diversity of Bunurong, Boonwurrung and Wurundjeri cultures, histories, knowledge and rights.
 - ii) Council holds a responsibility and leadership role to improve the cultural safety and responsiveness of our workplaces and the services we deliver. This will require a review of our Cultural Learning Strategy, to strengthen engagement and learning opportunities and develop a suite of resources that build the cultural capacity of our staff and stakeholders.
- **Opportunities** – Supporting Aboriginal and Torres Strait Islander well-being by providing opportunities for cultural gathering. Further, we will maximise employment opportunities and improve economic outcomes through the arts and our service procurement and supply chain.
 - i) Council acknowledges that increasing employment opportunities for First Peoples supports self-determination. We will endeavour to increase our First Peoples workforce and provide local opportunities for employment.
- **Governance** – Ensure we deliver on the actions outlined in our Innovate Reconciliation Action Plan and provide opportunities for meaningful review, advice and voice from First Peoples on our Reconciliation journey.

Relationships

Respectful relationships, established through regular connection and communication with First Peoples in our community and organisation, will be vital to build trust to advance positive outcomes through our Reconciliation Action Plan.

Action 1 – Establish and maintain mutually beneficial relationships with Aboriginal and Torres Strait Islander stakeholders and organisations

Deliverable	Timeline	Responsibility
Strengthen relationships with Traditional Owner Groups (including Registered Aboriginal Parties, the Bunurong Land Council Aboriginal Corporation and the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation) and the Boonwurrung Land and Sea Council. Build opportunities for collaboration through regular meetings.	<i>Ongoing quarterly meetings (and as required) 2024-2027</i>	<i>Housing, Safety and Reconciliation</i>
Advance and enable Aboriginal and Torres Strait Islander leadership by continuing to foster connection through our 'Spirit Network' or another forum. We will continue to build local relationships to create strong links and coordination between the community, Traditional Owners, state government and its agencies, and Aboriginal organisations	<i>Ongoing, throughout the year</i>	<i>Housing, Safety and Reconciliation</i>
Continue to develop a flexible model of consultation and engagement with our community that prioritises connections with young people, elders and the underserved.	<i>2024-2026</i>	<i>Housing, Safety and Reconciliation / Youth Services</i>

Action 2 – Address the needs and aspirations of Aboriginal and Torres Strait Islander youth

Deliverable	Timeline	Responsibility
Through existing programs, facilitate a platform for Aboriginal and Torres Strait Islander youth voice in order to develop a better understanding of their needs and aspirations.	<i>2025-2026</i>	<i>Youth Services / Housing, Safety and Reconciliation</i>
Maximise the benefit of existing partnerships to enable culture, learning, mentoring, recreation, health, safety and employment opportunities for Aboriginal and Torres Strait Islander youth.	<i>2025-2026</i>	<i>Youth Services / Housing, Safety and Reconciliation / Recreation</i>

Action 3 – Build relationships through celebrating days of cultural significance, including National Reconciliation Week and NAIDOC Week

Deliverable	Timeline	Responsibility
Continue partnerships to organise, celebrate and commemorate culturally significant days throughout the city. Implement inclusive programs that provide opportunities for Aboriginal and Torres Strait Islander children to actively participate and embrace cultural activities and practices.	Ongoing, throughout the year	Housing, Safety and Reconciliation (Lead) / Arts, Festivals and Events / Youth Services
Continue to partner with the Boonwurrung Land and Sea Council to deliver local reconciliation initiatives including the We-Akon Dlinja Mourning Reflection and ceremony on the lands of the Yalukit Willam Clan.	Ongoing, each year on 26 January	Housing, Safety and Reconciliation (Lead) / Arts, Festivals and Events
Maintain a program of events and opportunities and list these on the Council website. Communicate and promote these opportunities through Council and community networks.	Ongoing, throughout the year	Housing, Safety and Reconciliation / Arts, Festivals and Events
Celebrate, acknowledge and encourage participation of key events identified in our Diversity and Inclusion calendar, including National Reconciliation Week and NAIDOC Week by RAP Working Group members, Councillors and staff. We will organise at least one external National Reconciliation Week event each year and register these on Reconciliation Australia's website.	27 May-3 June and first week in July Annually	Housing, Safety and Reconciliation / People and Culture

Action 4 – Communicate and promote reconciliation through our sphere of influence

Deliverable	Timeline	Responsibility
Develop an internal communications plan to raise awareness of reconciliation to staff, executives and Councillors. This may include promotion of events and days of cultural significance (e.g., Reconciliation Australia's resources and materials). Delivery will be through Council's communications channels.	Ongoing	Communications Team / Housing, Safety and Reconciliation
Communicate our commitment to reconciliation through Council's broader communications channels to our community	Ongoing	Communications Team / Housing,

Innovate Reconciliation Action Plan 3

proudly port phillip

and stakeholders. This will include regular updates to websites, social media posts and articles in diversity.		<i>Safety and Reconciliation</i>
Support collaboration and advocacy by maintaining active involvement in relevant external stakeholder networks, other local councils, levels of government and relevant agencies.	<i>March 2025</i>	<i>Housing, Safety and Reconciliation</i>
Monitor the advancement of Victorian Treaty negotiations and provide advice in relation to local opportunities.	<i>Ongoing</i>	<i>Housing, Safety and Reconciliation</i>

Respect

The City of Port Phillip seeks to provide a respectful city and workplace, where First Peoples have the right to make their own decisions and carry out meaningful expressions of their culture in safe settings. We can educate our community, raise awareness and celebrate the achievements of First Peoples.

Action 5 – Demonstrate respect for Aboriginal and Torres Strait Islander people by observing cultural protocols and embedding reconciliation through Council services and programs

Deliverable	Timeline	Responsibility
Ensure Council's commitment to First Peoples remains strong and clearly articulated. Refresh the Statement of Commitment to ensure it is relevant and reflects the changing landscape of Registered Aboriginal Parties and Traditional Owner groups in the Port Phillip. Consider how a Voice to Council can embed meaningful participation from First Peoples in a local government setting.	July 2024	<i>Housing, Safety and Reconciliation / Governance</i>
Review the Aboriginal and Torres Strait Islander Protocols Framework to increase staff understanding and provide clarity. Engage with Traditional Owners and Registered Aboriginal Parties and First Peoples, and underpin: <ul style="list-style-type: none"> - Tasks and responsibilities between Registered Aboriginal Parties and Council - The requests and procurement of traditional ceremonies and smokings - Acknowledging Country - Cultural advice and practices - Use of language - Place naming - Providing advice and input on key strategies and proposals - Expanding perspective and our interpretation of culture and history. 	Ongoing, 2024-27	<i>Housing, Safety and Reconciliation</i>
Acknowledge and honour days of cultural significance by raising the Aboriginal and Torres Strait Islander flags on Council buildings.	Ongoing	<i>Governance / Meetings and Events / Housing, Safety and Reconciliation</i>

Innovate Reconciliation Action Plan 3

proudly port phillip

Engage a local Traditional Owner to provide a Welcome to Country at all significant Port Phillip events. This includes: <ul style="list-style-type: none"> - inviting a Traditional Owner to perform a Welcome of the new Council at the first meeting for the new terms. - Utilise citizenship ceremonies to support community awareness of Council's commitment to reconciliation. - Ensure ceremonies are settings of cultural learning and acknowledgement 	Ongoing / October 2024	Governance (Lead) / Events
Support local Aboriginal and Torres Strait Islander communities and staff by honouring the passing of First Peoples during Sorry Business including support upon request, and use of settings such as Cleve Gardens.	Ongoing, as required	Housing, Safety and Reconciliation

Action 6 – Celebrate and protect Aboriginal and Torres Strait Islander heritage and culture

Deliverable	Timeline	Responsibility
Engage Traditional Owners and Aboriginal and Torres Strait Islander communities in the development of a First Peoples Arts Strategy, to showcase arts, monuments, events and performances that recognise First Peoples' thriving cultures.	July 2025	Arts, Festivals and Events
Recognise First Peoples' perspectives and experiences and provide opportunity to memorialise cultures. This may include opportunities that to expand perspective and interpretation of shared settings and experience through projects like St Kilda Vaults, and may include seeking opportunities to recognise, honour and commemorate First People in our community in public places and settings.	2025	Arts, Festivals and Events
Protect places of cultural significance through mindful development and planning. Ensure Council meets legislated requirements and responsibilities under the <i>Aboriginal Heritage Act 2006</i> through the completion of Cultural Heritage Management Plans, including those required for Council works.	Ongoing	City Design / Strategic Planning
Provide opportunities that demonstrate First Peoples connection to country. This will include ensuring cultural knowledge is sought from Traditional Owners to inform design processes and provide references or opportunities to reflect Aboriginal cultures or Country in urban and public space projects.	Ongoing	City Planning and Sustainability / Open Space, Recreation and Resilience / Project Services

Innovate Reconciliation Action Plan 3

proudly port phillip

Work with Traditional Owners to identify sites with significance (e.g. Cleve Gardens) to First People through our city. Encourage where appropriate, these sites to be formally honoured and encourage opportunities for use for regular Truth Telling, Story Telling and Gatherings.		
---	--	--

Action 7 – Ensure Council services respond to the needs of Aboriginal and Torres Strait Islander communities

Deliverable	Timeline	Responsibility
Consolidate and strengthen our partnerships with service providers to improve outcomes for at-risk individuals in our community. This will include ongoing alignment of Council's priorities and coordination of services for outreach work through the following programs: <ul style="list-style-type: none"> - Reconciliation initiatives - Port Philip Zero Initiatives - Gathering opportunities - Amenity and local area response. 	Ongoing, weekly	Housing, Safety and Reconciliation / Safety and Amenity
Continue to work with Aboriginal and Torres Strait Islander service providers and housing organisations to ensure culturally appropriate, supported social housing and programs are delivered to meet the needs of local communities.	July 2022	Housing, Safety and Reconciliation
Deliver the Libraries for Aboriginal People program and include a commitment to ensure the Indigenous Australian collection remains vibrant, educational and current.	Ongoing	Community Services
Ensure programs and services comply with Victorian Child Safety Standards within the Child Wellbeing and Safety Act 2005 to protect children and families. Provide training to ensure services maintain culturally safe environments in which the identities and experiences of Aboriginal and Torres Strait Islander children are respected and valued.	Ongoing	Family, Youth and Children
Increase effectiveness of Council's community grants to support programs that progress reconciliation and support local events and cultural expressions.	March 2025	Grants and Community Building

Action 8 – Strengthen understanding between First Peoples and non-Indigenous community members

Deliverable	Timeline	Responsibility
Support opportunities that respectfully and actively partner with First Peoples to share knowledge of local history and culture. This may include programs that deliver on place naming, signage, library storytelling programs and ceremonies. This may also include initiatives like the Ngargee to Nerm walks and Yallikut Willam bike rides.	Ongoing	Housing, Safety and Reconciliation / RAP Working Group
Continue to support the work and commitment of Port Phillip citizens for advancing reconciliation throughout the city.	Ongoing	Housing, Safety and Reconciliation
Support the delivery of sustainability initiatives that provide connection and care for Country, using cultural management practices and approaches. Allow all members of our community to participate in protecting, restoring or enhancing Indigenous landscapes and watercourses.	Ongoing	Sustainability / Parks and Open Spaces

Action 9 – Promote positive relations between First Peoples and non-Indigenous people through culturally safe strategies and organisational learning

Deliverable	Timeline	Responsibility
Undertake annual review of Council's People Policies to ensure they are both compliant with relevant legislation and reflect best practice. Commitment to First Nations justice and reconciliation to be integrated into Council's Diversity, equity & Inclusion Framework, to ensure Council's work to address inequality is guided by and supports Aboriginal and Torres Strait Islander staff and community. Where changes are required, undertake required consultative, communication and approval processes. Engage with Aboriginal and Torres Strait Islander staff and advisors in relation to the changes.	January 2026	People, Culture and Safety / Diversity, Equity & Inclusion
Regularly communicate a culture of respect, and that council does not tolerate discrimination of any type.	Ongoing	People, Culture and Safety / Diversity and Inclusion
Develop management capability and behaviours for inclusive leadership including Cultural Safety.	2025	People, Culture and Safety / Governance /

		<i>Diversity and Inclusion</i>
Ensure Cultural Awareness Training is available and promoted to all employees including through the onboarding process for new employees.	2024	<i>People, Culture and Safety / Governance / Diversity and Inclusion</i>
Strengthen confidence and capability of staff to respectfully call out discriminatory and inappropriate behaviours when it occurs including bystander intervention.	2025	<i>People, Culture and Safety / Diversity and Inclusion</i>
Ensure Councillors are provided Cultural Safety and Cultural Awareness training.	October 2024	<i>Governance</i>
Improve our ability to collect demographic data for understanding our workforce.	Ongoing	<i>People, Culture and Safety / Diversity and Inclusion</i>
Provide non-indigenous staff with opportunities for cultural immersion and ensure Aboriginal and Torres Strait Islander staff are provided opportunities to meet with cultural leaders.	Ongoing, annual	<i>Housing, Safety and Reconciliation</i>

Opportunities

Council will champion opportunities that support self-determination for First Peoples in our community.

Action 10 – Support for Aboriginal and Torres Strait Islander well-being through cultural gatherings

Deliverable	Timeline	Responsibility
Maximise the use of Council buildings and places to support cultural gatherings and meetings. This will include conversation and evaluation of options for a culturally safe, standalone facility, incorporating direction from the Gathering Place Report 2021.	2024-2026	<i>Housing, Safety and Reconciliation</i>
Continue our partnerships with local services to facilitate social gathering programs for First Peoples.	Ongoing	<i>Housing, Safety and Reconciliation / Better Health Network</i>

Action 11 – Improve employment outcomes by increasing Aboriginal and Torres Strait Islander recruitment, retention and professional development

Deliverable	Timeline	Responsibility
Explore and identify different strategies to positively influence and promote recruitment and retention of Aboriginal and Torres Strait Islander employees. This will include consultation with Aboriginal and Torres Strait Islander staff.	2025	<i>People, Culture and Safety</i>
Review recruitment and selection policies, processes and practices to minimise bias and align with best practice	2025	<i>People, Culture and Safety</i>
Ensure consistent and fair selection processes for career development opportunities (e.g secondments, higher duties, development programs etc)	2025	<i>People, Culture and Safety</i>
Create conversations with relevant service partners to discuss opportunities to maximise cultural and recreational support for young First Peoples.	2024-2027	<i>Housing, Safety and Reconciliation / Youth Services (Partner)</i>

Action 12 – Increase Aboriginal and Torres Strait Islander supplier diversity to support improved economic and social outcomes

Deliverable	Timeline	Responsibility
Maximise opportunities through our existing social procurement policies and procedures to support First Peoples-owned and operated businesses.	July 2026	Procurement, Contracts and Fleet
Communicate opportunities for procurement of goods and services from Aboriginal and Torres Strait Islander businesses in line with Council's social procurement objectives, during Supplier Diversity September. This may include raising awareness of the procurement process through Supply Nation and the Kinaway Chamber of Commerce.	Annually, September	Procurement, Contracts and Fleet / Housing, Safety and Reconciliation

Governance

It is important to track our progress, be transparent and report on our success throughout our reconciliation journey to achieve the best outcomes.

Action 13 – Establish and maintain an effective RAP Working Group to drive governance of the Reconciliation Action Plan

Deliverable	Timeline	Responsibility
Track and report on our progress through the RAP Working Group. This group will actively support the development of the Reconciliation Action Plan and monitor its implementation and progress.	<i>Quarterly progress meetings and review</i>	<i>Housing, Safety and Reconciliation</i>
Ensure Aboriginal and Torres Strait Islander representation on the RAP Working Group.	<i>Ongoing</i>	<i>Housing, Safety and Reconciliation</i>
Review the established Terms of Reference for the RAP Working Group.	<i>August 2024</i>	<i>Housing, Safety and Reconciliation</i>
Actively engage First Peoples to participate in visioning, refining and monitoring the Reconciliation Action Plan.	<i>Ongoing</i>	<i>Housing, Safety and Reconciliation</i>

Action 14 – Provide appropriate support for the effective implementation of our reconciliation commitments

Deliverable	Timeline	Responsibility
Define resource needs for effective Reconciliation Action Plan implementation.	<i>Annually, July</i>	<i>Housing, Safety and Reconciliation</i>
Engage our senior leaders and other staff in the delivery of Reconciliation Action Plan commitments.	<i>Annually, July</i>	<i>Housing, Safety and Reconciliation</i>
Define and maintain appropriate systems to track, measure and report on Reconciliation Action Plan commitments.	<i>Annually, July</i>	<i>Housing, Safety and Reconciliation</i>
Appoint and maintain an internal Reconciliation Action Plan champion from the senior management team.	<i>Annually, July</i>	<i>Housing, Safety and Reconciliation</i>

Innovate Reconciliation Action Plan 3

proudly port phillip

Publish progress and actions delivered by Council on our Reconciliation Action Plan and enhance public accountability and visibility.	2028	Housing, Safety and Reconciliation
---	------	------------------------------------

Action 15 – Build accountability and transparency through reporting our achievements, challenges and learnings, both internally and externally

Deliverable	Timeline	Responsibility
Contact Reconciliation Australia to update contact details, access the online Reconciliation Action Plan Impact Measurement Questionnaire, submit the annual Reconciliation Action Plan Impact Measurement Questionnaire	Annually, June	Housing, Safety and Reconciliation
Report Reconciliation Action Plan progress to all staff and senior leaders quarterly, through established Council reporting systems.	Quarterly	Housing, Safety and Reconciliation
Publicly report our Reconciliation Action Plan achievements, challenges and learnings.	Mid-term	Housing, Safety and Reconciliation
Understand and support community aspirations for meaningful reconciliation by conducting an Attitudes to Reconciliation Barometer Survey.	2025	Housing, Safety and Reconciliation
Submit a traffic light report to Reconciliation Australia at the conclusion of this Reconciliation Action Plan.	2027	Housing, Safety and Reconciliation

Action 16 – Continue our reconciliation journey by developing our next Reconciliation Action Plan

Deliverable	Timeline	Responsibility
Develop our next Reconciliation Action Plan and ensure it is registered via Reconciliation Australia's website.	2028	Housing, Safety and Reconciliation

Related Documents & References

Legislation

Aboriginal Heritage Act 2006

Charter of Human Rights and Responsibilities Act 2006

Child Wellbeing and Safety Act 2005

National Agreement Closing the Gap July 2020

Public Health and Wellbeing Act 2028

[Victorian Aboriginal Affairs Framework 2021-2023](#)

Victorian Local Government Act 2020

City of Port Phillip Policy and References

Attitudes to Reconciliation Barometer Survey 2019

Gathering Place Report 2021

[Our Council Plan](#)

Reconciliation Action Plan 2017-2019

Other

[Koolin Balit](#) Victorian Government Strategic Directions for Aboriginal Health (2012-2022) Victorian Department of Health and Human Services

[Barring Djinang](#) Victorian Public Sector Commission Aboriginal employment strategy

Yalukit Willam, The River People of Port Phillip (2016) Meyer Eidelson / City of Port Phillip

Maggolee, Reconciliation Victoria - First Peoples Community Engagement and Partnerships

Tharamba Bugheen (2017-2021) Victorian Aboriginal Business Strategy

[Aboriginal and Torres Strait Islander Protocols Framework](#) Victorian Public Sector Commission

[Victorian Aboriginal and Local Government Strategy 2021 – 2026, Pathway to Stronger Partnerships](#)

[Victorian Government Social Procurement](#) Framework

[Korin Korin Balit-Djak – Aboriginal Health, Wellbeing and Safety Strategic Plan](#) (2017-2027) Victorian Department of Health and Human Services

Innovate Reconciliation Action Plan 3

proudly port phillip

2017-2027 – *Balit Murrup* - Aboriginal social and emotional wellbeing framework, Victorian Government. 2019 – Victorian Government Aboriginal and Torres Strait Islander Cultural Safety Framework





10. LIVEABLE PORT PHILLIP

10.1 *Proposed Amendment C220port: St Kilda Live Music Precinct - Authorisation*
.....47

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



10.1 PROPOSED AMENDMENT C220PORT: ST KILDA LIVE MUSIC PRECINCT - AUTHORISATION

EXECUTIVE MEMBER: BRIAN TEE, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT

PREPARED BY: SAMINDI YAPA, STRATEGIC PLANNER
ALAYNA CHAPMAN, HEAD OF CITY STRATEGY

1. PURPOSE

1.1 The purpose of this officer report is for Council to consider:

- a) The background of the St Kilda Live Music Precinct (**SKLMP**) and the findings and recommendations of the SKLMP Planning Study project.
- b) Proposed Amendment C220port to the Port Phillip Planning Scheme to implement the findings of the SKLMP Planning Study project.
- c) Whether to adopt the SKLMP Planning Study (stages 1 and 2) and seek authorisation from the Minister for Planning to prepare and exhibit Amendment C220port to the Port Phillip Planning Scheme.

2. EXECUTIVE SUMMARY

- 2.1 The SKLMP is Victoria's inaugural live music entertainment precinct, celebrated nationally and internationally for its rich history and concentration of live music entertainment venues. These venues contribute significantly to the social, cultural, and economic fabric of Port Phillip.
- 2.2 In June 2023, Council adopted the *St Kilda Live Music Precinct Policy* (**policy**), establishing a framework to recognise and support the St Kilda live music scene while balancing the needs of surrounding residents. A key action of the policy is to undertake a planning study to embed the SKLMP within the Port Phillip Planning Scheme.
- 2.3 The purpose of the SKLMP Planning Study (**project**) was to develop evidence-based recommendations and a clear planning framework that supports and encourages live music entertainment venues in the SKLMP.
- 2.4 The project comprised of two stages, supported by stakeholder engagement:
Stage 1. Identifying the issues and opportunities.
Stage 2. Exploring the planning opportunities and making recommendations.
- 2.5 The final Stage 2 report, titled *St Kilda Live Music Precinct Planning Study Stage 2: detailed investigations & recommendations*, April 2024 prepared by Hansen Partnership on behalf of Council, recommends several planning mechanisms available within the Victorian planning system. Its primary recommendation is to introduce a new local planning policy at Clause 13.07-3L to recognise the SKLMP and to amend the Schedule to Clause 53.06 (Live Music Entertainment Venues) to manage live music entertainment venues and nearby noise sensitive residential uses in the Precinct.
- 2.6 Council's primary pathway to implement the project is through a planning scheme amendment. As such, Council has two options:
Option A. Involves Council requesting authorisation from the Minister for Planning to prepare and exhibit proposed Amendment C220port.



Option B. No further action.

- 2.7 Officers recommend Option A. It is considered that Amendment C220port will establish a positive, discretionary planning framework for the SKLMP, supporting the retention, growth, and operation of live music entertainment venues in St Kilda while also managing amenity impacts.

3. RECOMMENDATION

That Council:

- 3.1 Notes the officer report and Attachments 1, 2, and 3 in relation to the St Kilda Live Music Precinct Planning Study project and proposed Amendment C220port to the Port Phillip Planning Scheme (**Amendment**).
- 3.2 Adopts the *St Kilda Precinct Planning Study* (Hodyl & Co, Echelon Planning and Enfield Acoustics, July 2023) and the *Stage 2: detailed investigations & recommendations* (Hansen Partnership, April 2024) at Attachments 1 and 2, respectively, as the basis for the Amendment.
- 3.3 As the planning authority, apply to the Minister for Planning (**Minister**) under section 8A of the *Planning and Environment Act 1987* (**Act**), for authorisation to prepare the Amendment (**Option A**).
- 3.4 If authorisation to prepare the Amendment is received under section 8A of the Act, or if the Minister has not notified Council of their decision within 10 business days after receiving the application:
 - a) As the planning authority, prepare the Amendment in accordance with section 8A(2) or section 8A(7) of the Act as relevant.
 - b) Authorise officers to make changes to the draft Amendment documentation at Attachment 3 as required prior to exhibition of the Amendment to correct any administrative errors and to meet any conditions the Minister imposes through authorisation.
 - c) Endorse, for the purpose of exhibition, the draft Amendment documentation at Attachment 3, subject to any changes required under 3.4 (b) above.
 - d) Exhibit the Amendment in accordance with sections 17, 18 and 19 of the Act.

4. KEY POINTS/ISSUES

- 4.1 **Background** The live music industry makes a significant contribution to Victoria's social and cultural landscape. However, the industry faced severe setbacks due to the impacts of the Covid-19 pandemic, resulting in the closure of numerous venues. This downturn had far-reaching effects on musicians, technicians, venue owners, and hospitality employees.
- 4.2 To address these challenges, in September 2020, the Victorian Government amended the Victoria Planning Provisions (**VPPs**), introducing Clause 13.07-3S - Live Music and amending Clause 53.06 - Live Music Entertainment Venues. These changes aim to promote the benefits of live music, support existing and new venues, designate live music precincts, and mitigate noise impacts on existing sensitive uses.



- 4.3 In response to these regulatory changes, in April 2021, Council endorsed the *Live Music Action Plan 2021-2024*. A key objective of the plan was to explore the formal establishment of a live music precinct in Port Phillip.
- 4.4 On 21 June 2023, the *St Kilda Live Music Policy* (**policy**) was adopted by Council and the St Kilda Live Music Precinct (**SKLMP**) was officially launched on 23 June 2023.
- 4.5 The policy designated land in the St Kilda Major Activity Centre (**MAC**) as Victoria's first live music precinct, outlining a preliminary boundary for further investigation and prioritising live music as a central activity. St Kilda was chosen as a live music precinct because it:
- a) Aligns and supports the long-term strategic vision for the MAC.
 - b) Is recognised for its rich music history and cultural significance. St Kilda's vibrant live music scene emerged in the 1970s, shaping and enriching the local character.
 - c) Has existing or emerging live music industry clusters (including live music entertainment venues, supporting businesses, event spaces (including open spaces and cultural institutions)).
 - d) Has supporting amenities and infrastructure to support live music entertainment venues and visitors i.e., accessibility of area, public toilets.
- 4.6 Importantly, a key initiative of the policy includes undertaking a planning study to help embed the SKLMP in the Port Phillip Planning Scheme.

St Kilda Live Music Precinct Planning Study approach

- 4.7 The objective of the SKLMP Planning Study (**project**) was to establish the strategic basis for the introduction of draft planning provisions into the Port Phillip Planning Scheme, ensuring certainty and consistency for live music outcomes in the SKLMP.
- 4.8 Given the City of Port Phillip is the first Council in Victoria to potentially implement a live music precinct into the planning scheme, there are no existing precedents or examples to guide the development of the project. Therefore, the project follows a similar staged process to other major strategic planning projects:

Stage 1. Identifying the issues and opportunities.

Stage 2. Exploring the planning opportunities and making recommendations.

Stage 1: Identifying the issues and opportunities

Approach

- 4.9 Council engaged Hodyl & Co, Echelon Planning and Enfield Acoustics to undertake Stage 1.
- 4.10 This stage of the project explored issues and opportunities related to the SKLMP, analysing the preliminary boundary outlined in the policy. It also explored the primary planning mechanisms available under the Victorian planning framework to guide the management of live music entertainment venues and nearby noise-sensitive residential areas. The primary planning mechanisms in the Planning Scheme include the following:



Clause 13.07-3S (Live Music)

- 4.11 The state planning policy aims to encourage, create, and protect opportunities for the enjoyment of live music. Council has the authority to introduce a new local planning policy under this clause to provide more locally specific guidance on live music.

Clause 53.06 (Live Music Entertainment Venues)

- 4.12 This statewide particular provision or 'header clause' acknowledges the importance of live music to the State's culture and economy. It promotes the retention and establishment of new live music entertainment venues, while also ensuring adequate protection for noise-sensitive residential uses. Council cannot amend this state-led provision, but there is flexibility to customise the Schedule to Clause 53.06 to identify specific precincts and venues.
- 4.13 Although Clause 53.06 (Live Music Venues) itself does not trigger the need for a planning permit, it does apply to planning permit applications required under any zone of the Port Phillip scheme to use and develop land associated with:
- a) **Live music entertainment venues**, including food and drink premises, nightclubs, function centres, or residential hotels with live music entertainment, rehearsal studios, or any other music performance venue specified in section 3.0 of the schedule.
 - b) **Noise-sensitive residential uses**, including community care accommodations, dwellings, residential aged care facilities, residential villages, retirement villages, rooming houses, or small second dwellings.
- 4.14 It is important to note that Clause 53.06 of the Port Phillip Planning Scheme focuses on the 'agent of change' principle for managing noise impacts. This principle assigns responsibility for acoustic attenuation to the use or development introducing change to the area, which may include:
- a) a new or existing live music venue seeking to establish or expand.
 - b) a new residential development close to an existing live music venue.
- 4.15 This principle helps ensure a fair and equitable approach to managing amenity impacts.

Stage 1 Planning Study findings

- 4.16 In July 2023, Council officers received the final *St Kilda Precinct Planning Study - Stage 1 (Attachment 1)*. The Stage 1 Study suggested expanding the SKLMP boundary and creating sub-precincts for specific types of live music. Additionally, it proposed four planning propositions that require further consideration. These opportunities are discussed in detail in subsequent sections of this report.

Stage 2: Exploring planning opportunities and making recommendations

Approach

- 4.17 Hansen Partnership were engaged to review and test the proposed precinct boundary, along with its sub-precincts, and the four planning propositions, as proposed in Stage 1.
- 4.18 The Stage 2 study focuses solely on planning related matters, with the aim being to develop a clear planning framework that supports and encourages the protection and creation of live music entertainment venues in the SKLMP.



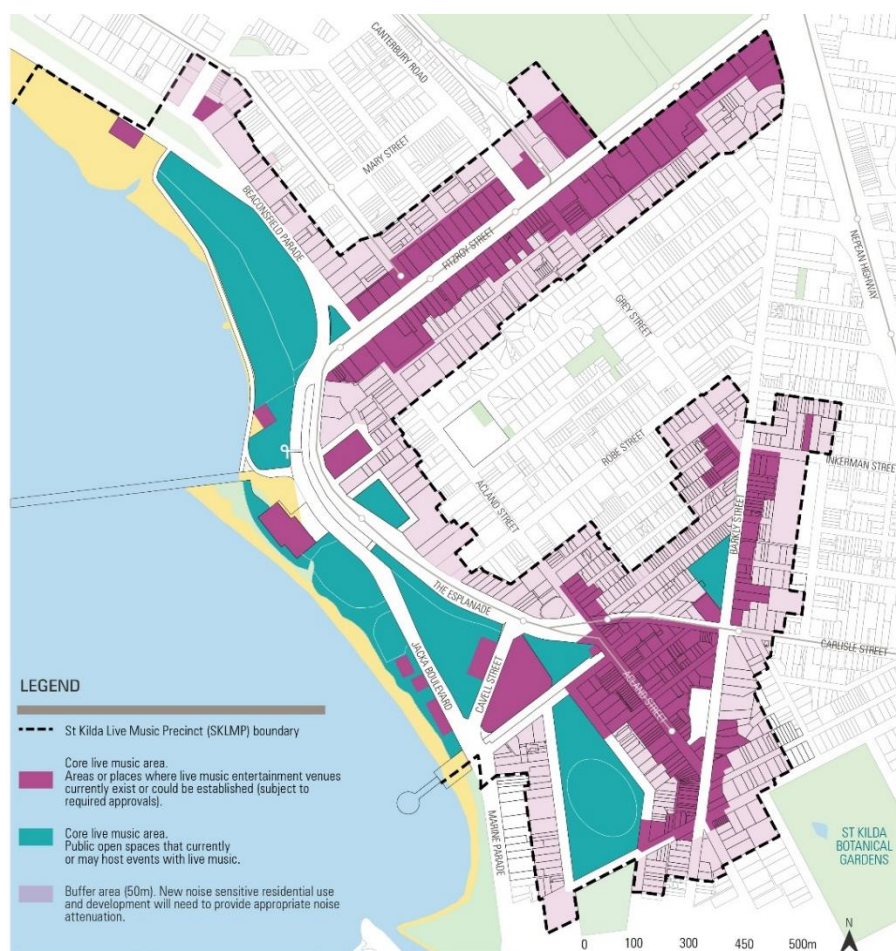
- 4.19 The final *St Kilda Live Music Precinct Planning Study Stage 2: detailed investigations & recommendations*, April 2024 is included in **Attachment 2**.

Stage 2 Planning Study findings

St Kilda Live Music Precinct boundary

- 4.20 The Stage 2 Study supported the guiding principles for delineating SKLMP boundary. These principles are:
- a) **Core live music area:** This core area, typically zoned Commercial 1 (C1Z) in the Port Phillip Planning Scheme, is where live music entrainment venues are encouraged. By concentrating these venues in strategic locations, synergies are created, attracting, and retaining live music operators, cultivating the precinct brand, and fostering sector growth.
 - b) **Surrounding buffer:** The buffer area, typically within 50 metres of the core area and public open spaces, is designed to manage amenity and noise impacts on nearby noise sensitive residential uses. It is derived from Clause 53.06 (Live Music Entertainment Venues) which sets out that a planning permit is required for a new noise sensitive residential use that is within 50 metres of a live music entertainment venue.
 - c) **Inclusion of Public Open Spaces:** Public open spaces that currently host or may host live music events are incorporated into the precinct boundary. This decision is based on the statutory interpretation of Clause 53.06-2, which defines live music entertainment venues to include both indoor and outdoor spaces. While the primary purpose of these public open spaces is recreation, they can serve multiple purposes if each purpose is distinct and not merely incidental or ancillary. By including these spaces within the precinct boundary, the intention is to use them as live music entertainment venues.
- 4.21 Although these principles are strategically sound, the Stage 2 Study suggests minor refinements, corrections, and additions, following a detailed review of the SKLMP boundary.
- 4.22 Furthermore, the Stage 2 Study recommends eliminating sub-precincts introduced in Stage 1. Instead, a simplified approach is proposed, delineating the core area for live music entertainment venues without specifying the type of live music activity. This approach avoids the complexities associated with defining sub-precincts and specifying the types of live music activity within the SKLMP.
- 4.23 The recommended updated boundary, depicted in Figure 1, will form the basis for planning provision changes to the Port Phillip Planning Scheme.

Figure 1. Final St Kilda Live Music Precinct boundary



Proposed planning propositions

4.24 In summary the Stage 2 Study supported all but one of the planning propositions set out in the Stage 1 Study (refer to Table 1.).

Table 1. Planning propositions

Stage 1 Study planning propositions		Stage 2 Study findings summary
1	Amend Schedule to Clause 53.06 to identify the St Kilda Live Music Precinct, where live music venues are encouraged	Supported.
2	Proposition 2: Undertake further investigation on the merit of applying an alternative acoustic attenuation standard to noise-sensitive residential uses within the SKLMP	Supported - but can be undertaken once the SKLMP is formally embedded into the Port Phillip Planning Scheme.
3	a) Use clause 3.0 of the schedule to Clause 53.06 to expand the definition of a 'live music entertainment venue' to apply to select venues used for frequent live music performances and live music activities.	Supported.

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



	b) <i>Use clause 3.0 of the schedule to Clause 53.06 to apply to the select music venues currently used for infrequent live music events.</i>	Supported.
4	a) <i>Update the Local Planning Policy Framework to formally identify the St Kilda Live Music Precinct, prioritise the establishment of live music entertainment venues within the precinct and require the application of the 'agent of change' principle.</i>	Supported.
	b) <i>Clarify the definition of 'live music entertainment' to specifically exclude amplified pre-recorded music.</i>	Not supported - Council's adopted Live Music Action Plan specifies that 'live music' extends to nightclubs which includes pre-recorded music.

Stage 2 Planning Study Planning recommendations

4.25 To achieve the project objective of establishing a clear planning framework supporting live music entertainment venues in the SKLMP, while also managing amenity impacts, the Stage 2 Study recommendations are as follows:

- a) Introduce a new local planning policy at Clause 13.07-3L (St Kilda Live Music Precinct).
- b) Amend Schedule to Clause 53.06 (Live Music Venues) to identify the SKMLP, as an area to which Clause 53.06 does apply.

4.26 Furthermore, minor adjustments are also recommended to ensure consistency and support the above planning provisions:

- a) Amend the wording at Clause 02.02 (Vision) to reference to 'live music'.
- b) Amend the wording at Clause 02.03-3 (Strategic Directions) to introduce strategic directions for SKLMP.
- c) Amend the wording at Clause 11.03-1L (St Kilda Major Activity Centre) to reference to 'live music'.

Draft Clause 13.07-3L (St Kilda Live Music Precinct)

4.27 The proposed draft local planning policy at Clause 13.07-3L (St Kilda Live Music Precinct) sets out the strategic basis for the inclusion of the SKLMP in Schedule to Clause 53.06 - Live Music Entertainment Venues. The policy will help guide decision making in relation to both live music entertainment venues and noise-sensitive residential uses (reflecting the balanced approach of the 'agent of change' principle).

4.28 It comprises four objectives acknowledging the significant social, cultural, and economic benefits that live music offers the local community and City. Crucially, it aims to facilitate the development of new live music entertainment venues in the precinct while also mitigating any potential adverse off-site operational and amenity impacts on the local community.

4.29 The draft local policy includes various discretionary strategies, including clarification that the responsibility for noise attenuation lies with the 'agent of change', i.e., the new live music venue or residential development.

4.30 The policy also features additional policy guidelines for Council to consider when assessing applications, along with a plan delineating the land affected by the SKLMP.

Draft Schedule to Clause 53.06 (Live Music Venues)



- 4.31 The proposed draft Schedule to Clause 53.06 nominates the SKLMP as an area where Clause 53.06 applies, with a cross-reference to Clause 13.07-3L.
- 4.32 The Schedule to Clause 53.06 additionally allows Council to tailor the provision, including specified exclusions and expansions of the Clause's scope, to ensure suitable venues receive proper protection. Consequently, existing live music entertainment venues near the declared SKLMP, along with various public open spaces within the boundary, are listed in section 3.0 of the Schedule to Clause 53.06.

Implementation options

- 4.33 Council now has two options:

Option A. Adopt the project studies (stages 1 and 2) and seek authorisation from the Minister for Planning to prepare and exhibit Amendment C220port.

Option B. Take no action.

- 4.34 These options are outlined below:

Option A

- 4.35 Under section 8A (3) of the *Planning and Environment Act 1987 (Act)*, Council can adopt the final project studies (stages 1 and 2) and seek authorisation from the Minister for Planning to prepare Amendment C220port to the Port Phillip Planning Scheme to implement the findings of the Stage 2 Study.
- 4.36 If Council chooses Option A, this will initiate the statutory process for implementing the SKLMP into the Port Phillip Planning Scheme via Amendment C220port. This option would require Council to give full notice to materially affected parties and stakeholders that it has prepared an amendment.
- 4.37 This multi-step process can take up to two years with final approval resting with the Minister for Planning.

Option B

- 4.38 Council can choose not to adopt the project studies and request authorisation from the Minister for Planning to prepare Amendment C220port to the Port Phillip Planning Scheme.
- 4.39 It is important to consider that pursuing Option B would not align with Council's adopted plans, policies, and strategies (listed at section 10 of this report below) and may impede progress on initiatives aimed at supporting the live music sector and implementing necessary planning measures.

Officer recommendation

- 4.40 Officers recommend Option A to initiate the statutory process for implementing the SKLMP into the Port Phillip Planning Scheme. The draft Amendment C220port documentation package can be viewed at **Attachment 3**.
- 4.41 This recommendation is supported by the following considerations regarding proposed Amendment C220port:
- a) It aligns and supports state policy on live music and makes proper use of the VPPs.
 - b) The proposed discretionary planning provisions offer increased flexibility to accommodate individual or unique circumstances.



- c) It will establish a positive strategic policy foundation for the SKLMP and make it clear that the responsibility of noise attenuation rests with the agent of change (being either the new live music venue or new residential development).
- d) Embedding SKLMP in the Port Phillip Planning Scheme would provide the strategic basis for further strategic work, if required.
- e) It seeks to reduce regulatory conflicts, in particular with the Environment Protection Agency (**EPA**) noise regulations.
- f) The methodology and approach for implementing the SKLMP is robust and easily replicable for other potential live music precincts within Port Phillip and across Victoria.
- g) It enjoys comprehensive local policy support (listed in section 10 of this report).

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Preparing the SKLMP Planning Study project has included consultation with key government and industry stakeholders.

Stage 1 Study consultation

- 5.2 Consultation undertaken in developing the process for live music precincts included a range of stakeholder interviews with state and local government representatives involved in policy and planning, governance and/or regulation of live music.
- 5.3 Live music stakeholders were involved in collaborative online workshops to provide input on preliminary recommendations. Through this engagement process, officers spoke to:
- a) Department of Transport and Planning (**DTP**)
 - b) EPA
 - c) Creative Victoria
 - d) Music Victoria
- 5.4 Other Australian local governments who have already designated live music precincts, or who are in the process of developing or implementing them at present, were also consulted. This included Brisbane City Council.

Stage 2 Study consultation

- 5.5 To date, Stage 2 works has included consultation with the following government departments and agencies: DTP; Department of Energy, Environment and Climate Action (**DEECA**); and EPA.
- 5.6 Project officers have worked closely with the above stakeholders to seek advice and feedback on the proposed planning provisions.

Amendment C220port

- 5.7 Pursuant to sections 17, 18 and 19 of the Act, notice of Amendment C220port would need to be given to:
- a) Every minister, public authority and municipal council that may be materially affected by the amendment.
 - b) The owners and occupiers of land that may be materially affected by the amendment. This includes anyone whose land is subject to changed controls



under the amendment and might include owners and occupiers of adjoining or nearby land.

- c) Any minister, public authority, municipal council, or person prescribed.

5.8 The exhibition of the Amendment would also involve:

- a) Council officers being available to meet with affected landowners and the community to provide information.
- b) The opportunity for affected parties by the Amendment to make a submission on the proposed amendment.
- c) Publication of notice in the Government Gazette and local newspaper.
- d) A dedicated Council webpage with an explanation of the amendment and relevant documentation.
- e) Relevant documentation being made publicly available at the St Kilda Town Hall.

5.9 All submissions made on the amendment will be reported to Council for consideration. Objecting submissions that cannot be resolved are required to be referred to an independent Planning Panel (appointed by the Minister for Planning).

6. LEGAL AND RISK IMPLICATIONS

- 6.1 Live music is a highly regulated within Victoria, subject to various State Government controlled statutory *frameworks including the Planning and Environment Act 1987 (Act), Environment Protection Act 2017, and the Liquor Control Reform Act 1998.*
- 6.2 This framework consists of interconnected systems of controls that overlap, meaning a change in one will affect the others. However, the City of Port Phillip has the authority to make changes to the Port Phillip Planning Scheme, which is the focus of this Stage 2 Study.

7. FINANCIAL IMPACT

- 7.1 Should Council resolve to pursue a future planning scheme amendment, it would be funded via the Amendment budget.

8. ENVIRONMENTAL IMPACT

- 8.1 The aim of this the SKLMP Planning Study is to facilitate live music venues within the precinct while also managing amenity impacts, including noise pollution on the community.

9. COMMUNITY IMPACT

- 9.1 The amenity impacts are being addressed and managed in the draft planning provisions.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 The Amendment aligns with and supports the following Council adopted documents:
 - a) The *Council Plan 2021-31*, particularly the 'Vibrant Port Phillip' strategic direction aimed at enhancing the City of Port Phillip's reputation as one of Melbourne's cultural and creative hubs.
 - b) The *City of Port Phillip Spatial Economic and Employment Framework 2024*, which includes an action to translate the St Kilda Live Music Precinct into local planning policy.



- c) The *Live Music Action Plan 2021-2024*, which is a priority initiative sitting under the Creative and Prosperous City Strategy 2023-26 and includes a key action to explore formally establishing a Live Music Precinct.
- d) The *St Kilda Live Music Precinct Policy*, June 2023, which advocates for more opportunities for live music in the precinct.
- e) The *Events Strategy 2023-26*, which aligns event delivery with the *Live Music Action Plan 2021-2024* and aims to maximise opportunities by enhancing usage and live music activity.
- f) The *Creative and Prosperous City Strategy 2023-26*, which emphasises festivals and events as integral to the council's commitment to arts and culture.
- g) The *Library Action Plan 2021-26*, which supports the delivery of Council's Live Music Action Plan by creating space for performance, rehearsal, exhibition, and creative development.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

- 11.1.1 Should Council resolve to proceed with the amendment, a request for Ministerial authorisation to exhibit Amendment C220port will be sent to the Minister for Planning.
- 11.1.2 Subject to the timing of authorisation, exhibition of Amendment C220port is scheduled for one month.
- 11.1.3 All submissions received will be reported to Council and any unresolved submissions must be referred to an independent Planning Panel.




11.2 COMMUNICATION

- 11.2.1 Information on Council's decision at this meeting will be provided to the affected landowners and made available on Council's website.
- 11.2.2 If authorised, Amendment C220port will be publicly exhibited pursuant to Section 19 of the Act.

12. OFFICER MATERIAL OR GENERAL INTEREST

- 12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

ATTACHMENTS

- 1. St Kilda Precinct Planning Study (Hodyl & Co, Echelon Planning and Enfield Acoustics, July 2023) 
- 2. Stage 2: detailed investigations & recommendations (Hansen Partnership, April 2024) 
- 3. Draft C220port amendment package 

Hodyl & Co

St Kilda Live Music Precinct Planning Study Report

Prepared for the City of Port Phillip
July 2023

In partnership with Echelon Planning and Enfield Acoustics



Front and back cover image of the Prince of Wales.

Hodyl & Co



All due care has been taken in the preparation of this report. Hodyl & Co, however, are not liable to any person or entity for any damage or loss that has occurred, or may occur, in relation to that person or entity taking or not taking action in respect of any representation, statement, opinion or advice referred within this report.

Prepared by Hodyl & Co, Echelon Planning and Enfield Acoustics for the City of Port Phillip

Project team:

Leanne Hodyl, Rachel Maguire, David Morison, Alice Fowler, Antonio Huang; Mark Woodland, Michelle Wang; Darren Tardio

July 2023
Version 3

Hodyl & Co Pty Ltd
ABN 85 613 469 917
www.hodyl.co



Hodyl & Co—St Kilda Live Music Precinct Planning Study

Contents	3
Executive summary	4
Introduction	6
Part 1. Context	10
Part 2. Issues and challenges	30
Part 3. Opportunities and actions	38
Appendices	66

Executive summary

"The City of Port Phillip has a long and proud history as a centre of creativity, artistic endeavour and cultural production."

- Music Victoria 2022

Live Music in St Kilda

Live music is an integral part of St Kilda's history and the area is home to a significant cluster of live music venues.¹ Former and current live music venues include the Earl's Court, St Moritz, the Crystal Ballroom (The Ballroom), the Esplanade Hotel (The Espy), The Venue, the Bananas, and The Prince of Wales. The annual St Kilda Festival is the largest, free music event in Australia and has been attended by approximately 9 million patrons over its 40+ year history.² St Kilda continues to sport a reputation as a music incubator of national significance.³

Project background

In September 2020 the Victorian Planning Minister introduced changes to State planning policy that recognise the social, economic and cultural benefits of live music and encourages the creation and protection of opportunities for the enjoyment of live music.

In April 2021, Council endorsed the Live Music Action Plan 2021-2024, which is a strategy to support the live music industry in Port Phillip. A key action in the Plan is to work with the State Government, Music Victoria and industry stakeholders to explore formally establishing a live music precinct in Port Phillip.

Issues and challenges

A complex environment

The planning and regulatory environment for live music and music noise is complex and intersects with several policy and regulatory areas, including planning, noise, liquor licensing, building, local laws and local policies. Navigating this environment can be challenging for various stakeholders including venue operators, developers and residents.

Extent of existing residential development

The proposed Live Music Precinct is within a diverse and established area with a significant residential population. This includes developments with ground floor commercial uses that host live music, or could do so in the future, with residential developments located on upper levels. Managing impacts of music noise on existing residents is challenging and may limit new venues from establishing.

Agent of change principle

The agent of change principle (Clause 53.06) forms a central part of the recent changes to planning policy. This principle assigns responsibility for noise attenuation measures to the 'agent of change' – a new use or development that is introduced into an existing environment. In the context of the St Kilda Live Music Precinct, this could apply to a new live music venue, an existing live venue seeking to expand its operations, or a new residential development. It is important to note that this planning policy is focused on existing uses and is limited in how it assists potential locations where future live music venues may wish to establish.

Regulatory environment

While a live music venue may be complying with regulated noise limits and the agent of change principle (Clause 53.06), there is a risk that a venue may still be requested under the Environment Protection Authority's General Environmental Duty to further decrease amplification levels or install additional soundproofing if a risk is identified, such as via noise complaints.

1 St Kilda Historical Society 2021

2 Music Victoria 2022

3 Ibid.

Success factors for live music precincts

To inform the development of this report, research was undertaken to identify a list of key attributes and success factors for Live Music Precincts. Successful precincts generally provide a diverse entertainment offer to visitors within an environment that is inclusive, safe and easy to navigate. Musicians and venues are supported directly by Council and indirectly by the vibrancy of the area. Live music venues operate in-line with best practice and the music industry as a whole is supported through the provision of space to perform, create, learn and collaborate. The key attributes and success factors for live music precincts were grouped under three categories within an assessment framework:

1. Spatial Attributes
2. Venue Attributes
3. Governance attributes

The framework could be used on a regular basis, potentially annually or biannually, providing a longitudinal assessment of how the precinct is performing.

How is St Kilda performing?

An initial assessment of St Kilda shows several attributes are already in place or contributing towards the success factors for live music precincts, including:

- Spatial attributes related to the diversity of venues and spaces in the precinct, the high level of public transport accessibility, and the relative ease of movement and access for patrons within the precinct.
- Governance attributes related to initiatives and actions by Council such as establishing a project working group, undertaking engagement with the community and stakeholders, and providing support to venue operators, festivals, events and musicians through funding programs.

Assessment of venue attributes did not form part of this initial work as engagement with venue operators was outside of the project scope.

Opportunities

The final part of the report identifies the following opportunities to support the aims of the St Kilda Live Music Precinct.

1. Designate sub-precincts within the wider study area

Categories of live music venues in combination with sub-precincts would allow certain types of live music to be encouraged in appropriate locations.

2. Extend the agent of change principle

Use schedules within the agent of change principle (Clause 53.06) to specify a live music precinct area, set an alternative noise attenuation standard, an expand the definition of a live music entertainment venue.

3. Provide funding for sound attenuation to live music venues

Future proofing live music in St Kilda will require a range of measures which could include funding to support the soundproofing of venues and spaces.

4. Continue to engage with stakeholders

Changes to enforcement policy through special provisions in the Environment Protection Authority's Noise Protocol could help facilitate the aims of the Live Music Precinct. This would require significant advocacy to State Government and the EPA.

Introduction

Background

In September 2020 the Victorian Planning Minister introduced changes to State planning policy that recognise the social, economic and cultural benefits of live music and encourages the creation and protection of opportunities for the enjoyment of live music.

In April 2021, Council endorsed the Live Music Action Plan 2021-2024, which is a strategy to support the live music industry in Port Phillip. A key action in the Plan is to work with the State Government, Music Victoria and industry stakeholders to explore formally establishing a live music precinct in Port Phillip.

Council's working definition of a 'live music precinct' is an area in which live music is recognised as a priority activity, resulting in potential changes to regulatory frameworks, governance processes and communications to support and protect live music activity.

Purpose

Council engaged Hodyl & Co, Echelon Planning and Enfield Acoustics to undertake a planning study for the live music precinct. The report analyses the planning and regulatory influences on live music activities and the establishment of a live music precinct. This work will support both the Live Music Precinct Policy that Council recently endorsed and a future amendment to the Port Phillip Planning Scheme to establish a live music precinct in St Kilda. It is intended that the outcomes of this project could also be readily transferable to other potential live music precincts in the future.

Project objectives

The objectives of this project are:

- To prepare an independent analysis of the regulatory framework and requirements relating to live music activities and establishment of live music entertainment venues and live music precincts.
- To define key attributes and success factors for live music entertainment venues and precincts.
- To provide technical background information for the proposed Port Phillip Live Music Precinct Policy.

- To prepare a draft schedule to Clause 53.06 and any supporting changes to local policy to establish a live music precinct in St Kilda.
- To provide strategic justification for an amendment to the Port Phillip Planning Scheme that will stand up to review and scrutiny at a Planning Panel and by the State Government.
- To recommend a methodology for investigating and proposing potential live music precincts and live music entertainment venues under Clause 53.06.
- To determine non-planning scheme actions that may be needed to protect existing and encourage new live music activity in Port Phillip, including process improvements, community and stakeholder communication, capital works, advocacy and changes to other Council legislation or policies.

Project limitations

The development of this report has revealed the need for additional data to support the strategic justification for a Planning Scheme amendment, as well as informing the preparation of a draft schedule to Clause 53.06 and a methodology for investigating and proposing potential live music precincts. The report therefore identifies a set of planning opportunities, rather than recommendations, along with actions for further work to be undertaken by Council.

Study area

The proposed Live Music Precinct boundary is shown in Figure 1. It is focused on several mixed-use areas in St Kilda as well as a network of public open spaces located along the foreshore of Port Phillip Bay and The Esplanade.

The area includes:

- St Kilda Major Activity Centre, comprising the Acland Street and Fitzroy Street retail strips
- Inkerman / Grey Street Local Activity Centre
- Part of the Greeves Street Mixed Activity Precinct
- St Kilda Foreshore area including Catani Gardens, South Beach Reserve and the St Kilda Triangle site.

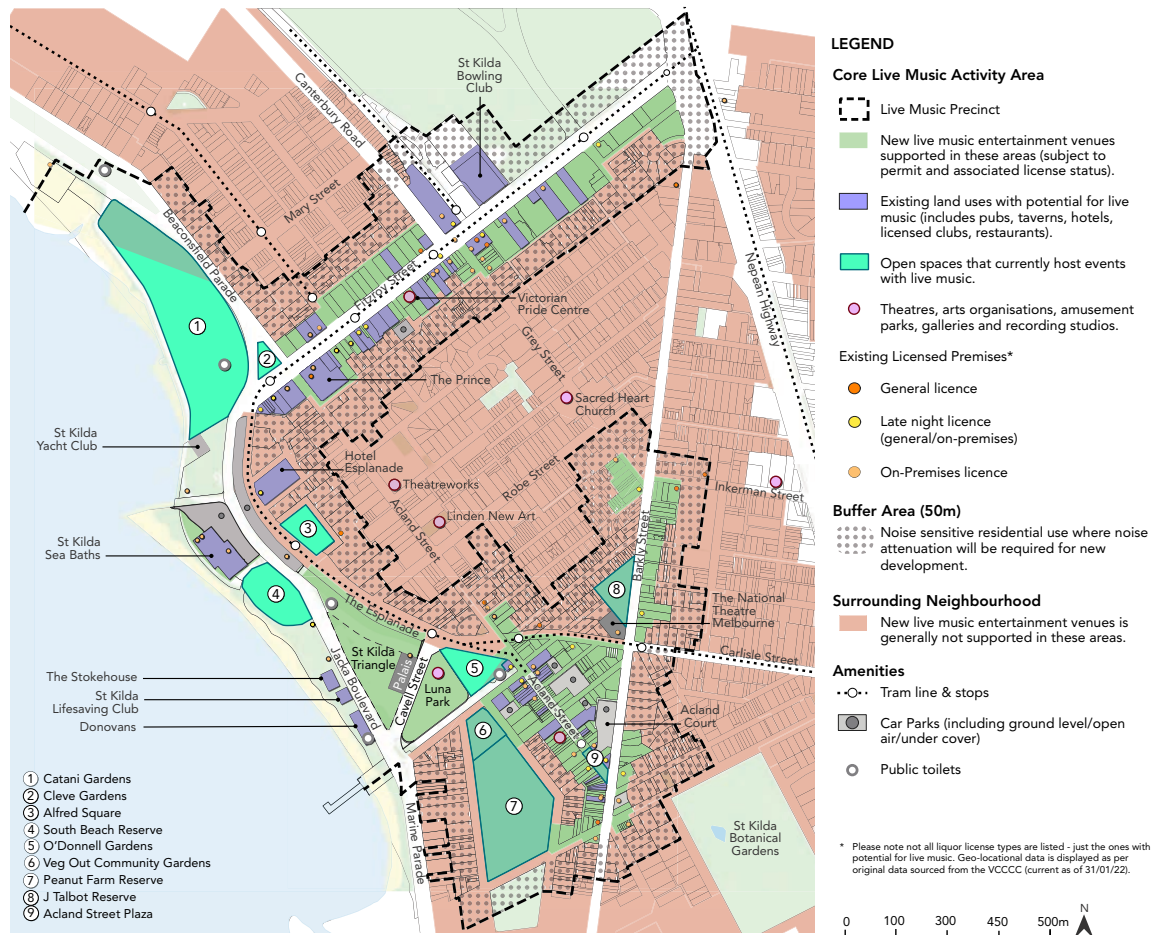


Figure 1. Map of the proposed St Kilda Live Music Precinct boundary (Source: City of Port Phillip)

Methodology

Our methodology for the project comprised three main stages outlined below.

1. Background research
To understand how the regulatory systems are currently impacting the creation and protection of opportunities for the enjoyment of live music, and to define key attributes and success factors for live music entertainment venues and precincts.
2. Noise analysis
To understand the regulatory context and technical requirements for managing noise impacts and identify opportunities for improved processes and outcomes
3. Planning proposition
To understand how the regulatory systems are currently impacting the creation and protection of opportunities for the enjoyment of live music, and to define key attributes and success factors for live music entertainment venues and precincts.

Work undertaken across the three stages was informed by:

- A site visit, spatial assessment and mapping of the proposed Live Music Precinct study area.
- A review of preliminary investigations undertaken by the City of Port Phillip Live Music Precinct Working Group.
- A review of the planning and regulatory context relevant to live music and music noise.
- Interviews and a workshop with stakeholders.

Report structure

As shown in the figure opposite, the St Kilda Live Music Precinct report comprises a consolidated report and appendices. The consolidated report provides an overview of the extensive technical work and analysis included in the appendices. Due to the complexity of the planning and regulatory framework for live music, it is important that the appendices are read in conjunction with the consolidated report. In particular, the Planning Technical Report, Planning Proposition Report and Noise Analysis Technical Report contain detailed information, analysis and advice in relation to planning matters and noise regulations.

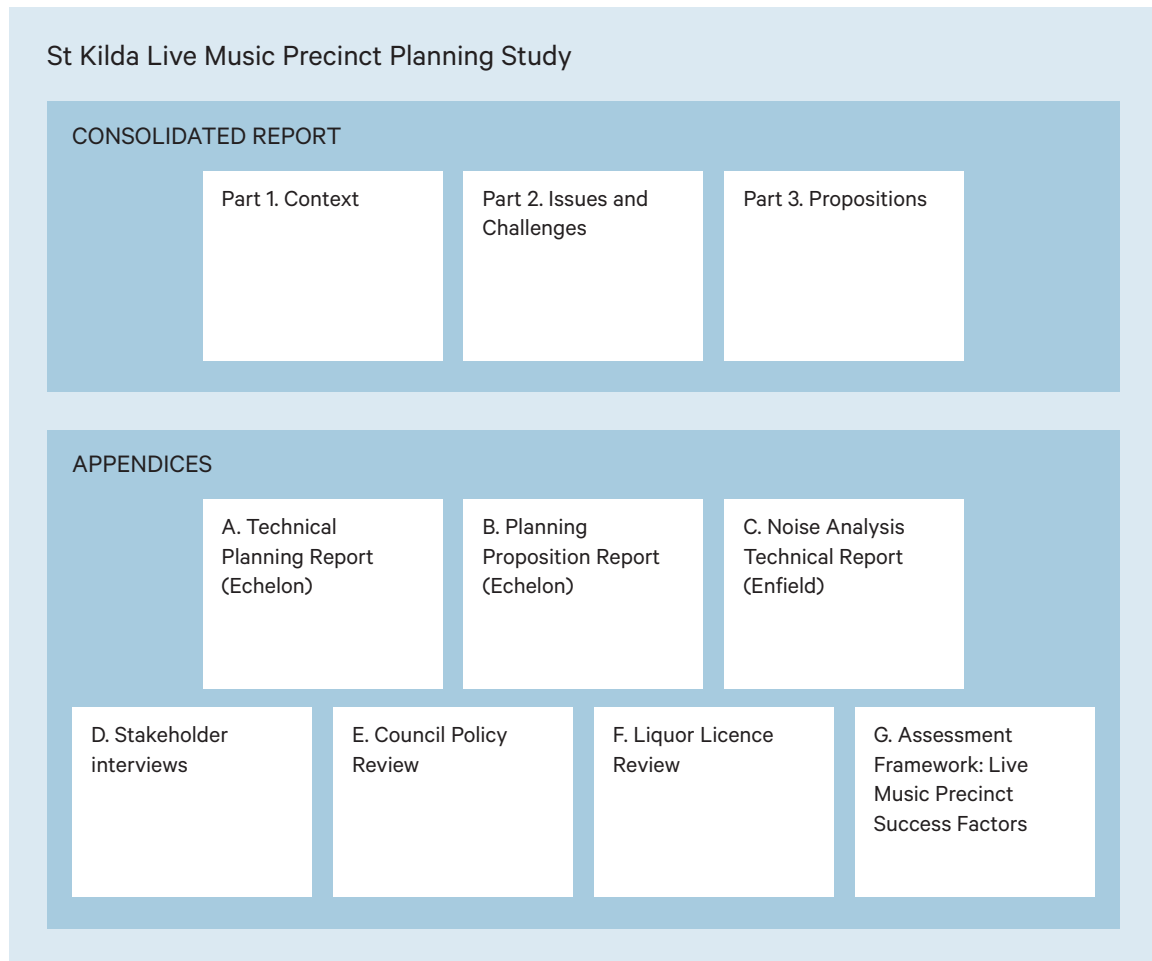


Figure 2. Overview of the report structure.

Part 1. Context



The value of live music

At both the local and national level, there is significant research and evidence that demonstrates the value of live music, both socially and economically.

St Kilda

Live music is an integral part of St Kilda's history and the area is home to a significant cluster of live music venues.¹ Former and current live music venues include the Earl's Court, St Moritz, the Crystal Ballroom (The Ballroom), the Esplanade Hotel (The Espy), The Venue, the Bananas, and The Prince of Wales. The annual St Kilda Festival is the largest, free music event in Australia and has been attended by approximately 9 million patrons over its 40+ year history.² St Kilda continues to sport a reputation as a music incubator of national significance.³

While over time the area has also been an affordable home for many musicians and creatives⁴, in more recent times St Kilda's increasing land values and rising rents have forced artists out of the area.⁵

Like many other inner-city municipalities, processes of urban consolidation in the City of Port Phillip has seen residential development encroaching on existing live music venues, leading to conflicts with noise sensitive land uses.⁶

Audience engagement with live music

in 2020, the Australia Council for the Arts released *Creating our Future, Results of the National Arts Participation Survey*. Not only do the results show that 98% of Australians engage with the arts, the report also revealed that live music had the highest level of attendance (48%) across all forms of live performance.

Research shows that for every dollar spent on live music, three dollars of benefit is returned to the wider community. This is a significant, and unrecognised, contribution that includes the dollars that flow to the national economy as well as the ways experiencing live music enriches people's lives.

— Dr Dave Carter, Lecturer in Music Technology at University of Tasmania

1 St Kilda Historical Society 2021

2 Music Victoria 2022

3 Ibid.

4 Music Victoria 2022

5 Hente 2018

6 Burke & Schmidt 2013

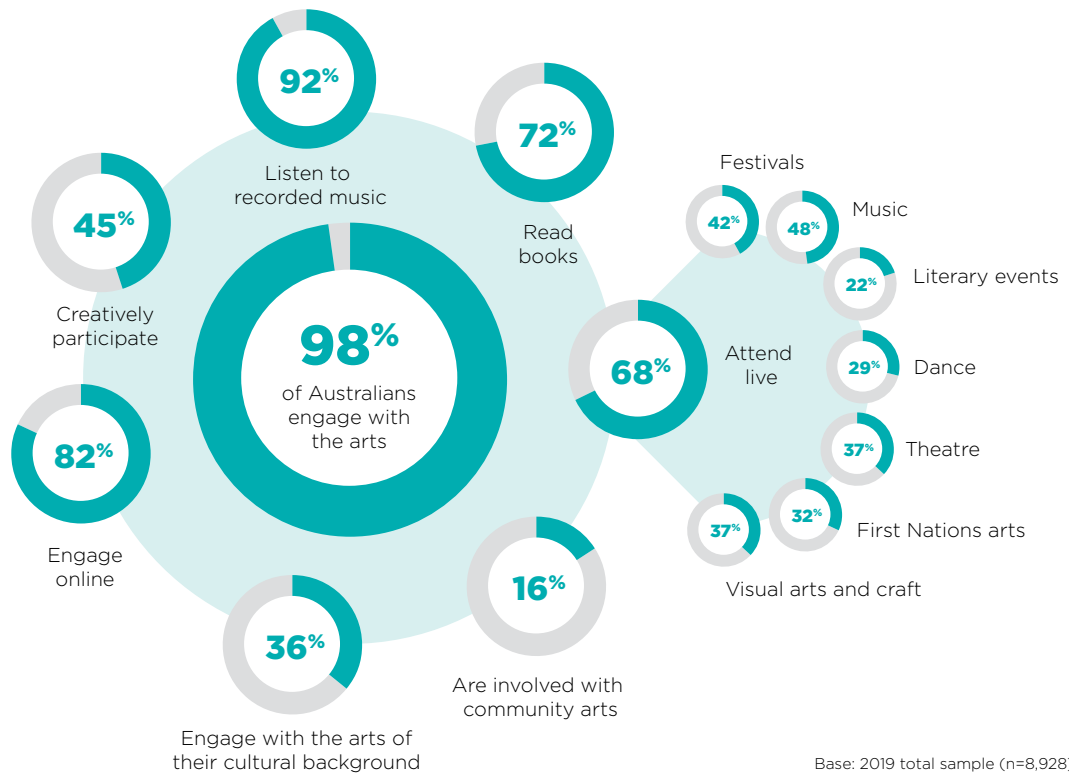


Figure 3. Australians' arts engagement 2019, taken from 'Creating Our Future, Results of the National Arts Participation Survey', August 2020, Australia Council for the Arts. The results show that live music recorded the highest level of attendance.

Planning and regulatory framework

The planning and regulatory environment for live music and music noise in Victoria is complex.

The planning and regulatory environment for live music and music noise intersects with several policy and regulatory areas, including planning, noise, liquor licensing, building, local laws and local policies as shown in the figure below.

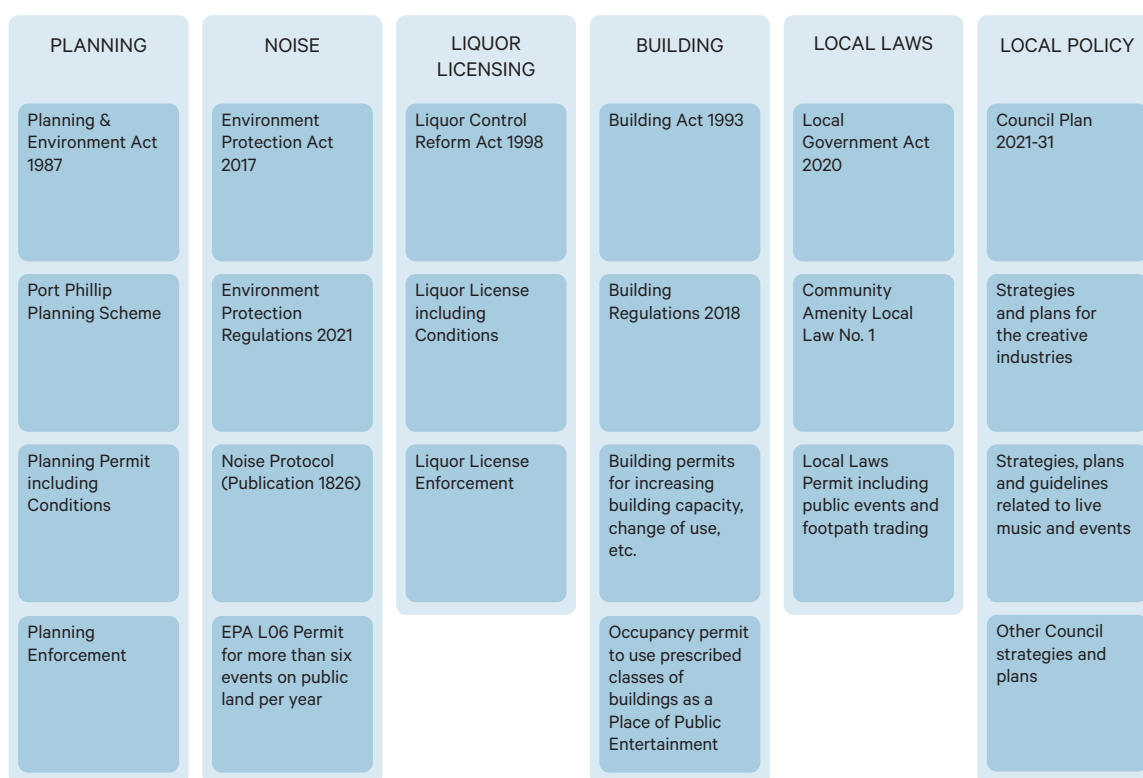


Figure 4. Regulatory frameworks reviewed for the St Kilda Live Music Precinct Planning Study.

What does this mean for a new live music venue?

Operators of existing and new live music venues, festival and event organisers and apartment developers need to comply with the relevant areas of this framework. The image below, taken from Merri-bek City Council's guidelines for music venues, illustrates what the operator of a new live music venue needs to do.



PLANNING APPROVAL

You may need - a Planning Permit for your business, depending on the zone, overlay, whether or not you are serving liquor and other factors. A Planning Permit application is where the Council checks to make sure that your business use and development of land won't negatively affect the surrounding area. You should check with your Council to make sure you need a Planning Permit before undertaking an application.



BUILDING APPROVAL

If you're planning to build or renovate, it must be done safely, be structurally sound and appropriate for the area. To ensure this, you'll need a Building Permit. You need a Planning Permit, make sure you get that first. You may also need an Occupancy Permit, if your business is different from what the premises are used for now. For more information about getting a Building Permit, view the **Building Permits for Businesses** fact sheet.



LIQUOR LICENSING & FOOD REGISTRATION

If you serve or sell alcohol you'll need a Liquor Licence from the Victorian Liquor Commission too.

To sell food, you'll need to be registered with the local Council.



REGULATIONS & REGISTRATIONS

If you have significant environmental impacts such as air quality, noise, odour and waste you may need to meet EPA policies, standards and guidelines. Live music venues in particular need to comply with noise guidelines.

If you use a footpath outside your business for seating, displaying goods or advertising signs, you will need a local laws permit from the Council.

Once you have approval from each regulation that applies to your business, you're allowed to operate.

Image 1. Overview of what is needed for a venue operator to establish a new live music venue, taken from Merri-bek City Council's guidelines for music venues.

What do we mean by live music?

With multiple agencies and organisations involved in the regulation of live music, there are various definitions of live music, performers and venues.

The following section provides information on how various agencies and organisations have defined live music, performers and venues. It shows that there is a lack of consistency across the definitions. This creates a complex environment for the live music industry, wider community and stakeholders. Ideally, there would be a collective effort to harmonise definitions, however practically achieving this would be highly challenging. Alternatively, further work could be undertaken to more clearly communicate areas of alignment and difference across the definitions.

City of Port Phillip Live Music Action Plan

The Plan considers live music to be:

A music performance being given by a person or people, using their voice and/or musical instruments.

This encompasses everything from a solo acoustic busking performance on a street corner through to a formal concert for thousands at the Palais Theatre. It includes all genres including pub rock, classical, musical theatre, opera or hiphop and anything else you can imagine.

The Plan is also inclusive of the wider music and live music industries, made up of an ecosystem that supports the end-product of live music performance. As defined in the 2019 City of Port Phillip Creative Industries Mapping Project, this is extended to include various businesses, and the infrastructure, tools and patrons that support them, including nightclubs, sound design, recording and post-production facilities, music publishing and music schools.

Live Music in the City of Port Phillip 2019-2021

The Live Music in the City of Port Phillip 2019-2021 report prepared by Dobe Newton on behalf of the City of Port Phillip and Music Victoria drew on data from the Melbourne Live Music Census 2022. The report identifies smaller venues as hosting 'regular' live music performances if they occur a minimum of once per week. This differs from the definition in the 2017 report discussed below.

Melbourne Live Music Census 2017 Report

The census notes that there are many definitions of what constitutes a live music performance. For the purposes of the census, a live music performance is defined as:

A creative presentation of music by a featured performer in the presence of an audience gathered in a public space designated for the performance where appropriate technology is utilised to communicate that performance to those in attendance.

A 'featured' performer (musician/band/DJ) is one who is specifically named in advertising/promotion. Where performers were not named, e.g. 'open mic' nights, 'club/party nights with DJs', they are not included as a regular presentation in the census.

Any venue that has two gigs per week is identified as 'regular' live music venue. If a venue has less than two gigs per week it is noted as an 'occasional' presenter.

Environmental Protection Authority Victoria

The Environmental Protection Authority (EPA) definitions do not include live music. Music is defined as meaning:

Any combination of sounds produced by the playing of a musical instrument, by singing, recitation or dancing, or the reproduction of these.

While music noise means:

Music and associated contemporaneous sounds heard in a noise sensitive area.

People attend entertainment venues to listen to, experience and enjoy music. However, if the same music is heard in people's homes it can interfere with sleep and domestic activities such as talking, reading or watching television.

Entertainment venues and events

The EPA regulations also define different types of venues and events.

INDOOR ENTERTAINMENT VENUE

Any premises (other than residential premises or an outdoor entertainment venue) where music is played and includes a live music entertainment venue, hotel, tavern, cabaret, night club, discotheque, reception centre, skating rink, restaurant, cafe, health and fitness centre, recording and rehearsal studio, theatre, amusement park, amusement parlour, retail store, shop, public hall and club.

OUTDOOR ENTERTAINMENT VENUE

Any premises (other than residential premises) where music is played in the open air and which cannot feasibly be enclosed and sound-proofed because of its size. Outdoor entertainment venues include sports and other large outdoor arenas and major sports and recreation facilities having substantial provision for spectators, and privately owned land used for playing music in the open air.

OUTDOOR ENTERTAINMENT EVENT

An event where music is played and is held on public land including a road reservation, public open space, park, foreshore reserve or land of a similar nature. It also includes an event held on that land in a temporary building or structure, such as a marquee, tent or temporary soundstage, that is not a permanent fixture of the land and is erected for the purposes of the event.

Victorian Planning Provisions

Under Clause 53.06 of the Planning Scheme, a live music entertainment venue means:

- 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.

There are currently no other venues specified in clause 3.0 of the schedule to Clause 53.06 in the Port Phillip Planning Scheme.

Liquor Licensing

The majority of live music performances in small venues take place in businesses that are licensed by the Victorian Liquor Commission.

Liquor control reform act

The Liquor Control Reform Act 1988 (the Act) regulates the supply and consumption of liquor in Victoria. Under the Act, a live music event is defined as:

An event at which takes place the creation or manipulation of sound for artistic, cultural or religious purposes, and which is performed to an audience.

What do we mean by a noise sensitive residential area or use?

Certain areas or uses, including residential apartments, require protection from unreasonable noise.

The following section provides information on how the Environmental Protection Authority (EPA) and the Victorian Planning Provisions define noise sensitive areas or uses. In relation to the Live Music Precinct, this will generally relate to residential dwellings. While there is some inconsistency across the definitions, there is greater alignment compared to the definitions for live music, performers and venues described in the previous section.

Environmental Protection Authority Victoria

The EPA defines noise sensitive areas. These are specific types of premises and areas that require protection from unreasonable noise, such as residential premises, retirement villages and hospitals.

Under the EPA regulations, the meaning of a noise sensitive area includes that part of the land within the boundary of a parcel of land that is within 10 m of the outside of the external walls of any of the following buildings:

- a dwelling (including a residential care facility but not including a caretaker's house)
- a residential building
- a noise sensitive residential use

Or within 10 m of the outside of the external walls of any dormitory, ward, bedroom or living room of one or more of the following buildings:

- a caretaker's house
- a hospital
- a hotel
- a residential hotel
- a motel
- a specialist disability accommodation
- a corrective institution
- a tourist establishment
- a retirement village
- a residential village

Victorian Planning Provisions

Under Clause 53.06 of the Planning Scheme, a noise sensitive residential use means:

- community care accommodation
- dependent person's unit
- dwelling
- residential aged care facility
- residential village
- retirement village
- rooming house.

It is also important to note that Clause 53.06 varies the standard EPA definition of a noise sensitive area for new residential development. Clause 53.06 places the noise sensitive area inside the dwelling for the purpose of assessing whether noise standards are met.

The agent of change principle

Recent changes to planning policy recognise the social, economic and cultural benefits of live music and encourage the creation and protection of opportunities for the enjoyment of live music.

In September 2020 the Victorian Planning Minister revised Clause 53.06 (Live Music Entertainment Venues) and introduced the new State planning policy under Clause 13.07-3S (Live Music). While these changes recognise the important role of live music, it is important to understand the benefits and limitations of the revised planning policy.

Introducing the agent of change principle

The agent of change principle has been introduced into the Victorian Planning Provisions to manage the relationship between live music venues and residential uses.

In planning, the agent of change principle assigns responsibility for noise attenuation measures to the 'agent of change' – a new use or development that is introduced into an existing environment. In the context of the St Kilda Live Music Precinct, this could apply to a new or an existing live music venue or a new residential development.

As described in Planning Practice Note 81, in practical terms this means:

- That if a new or an existing live music venue seeks to establish or expand, they will be responsible for attenuating any noise effects that are caused by that change on nearby residential properties.
- Similarly, a new residential development close to an existing live music venue will be responsible for noise attenuation of its building to protect future residents from the live music venue.

Where does the agent of change principle apply?

Under Clause 53.06, the agent of change principle applies to a planning application required under any land use zone of the Port Phillip Planning Scheme for:

- A live music entertainment venue, or
- A noise sensitive residential use that is within 50 metres of a live music entertainment venue.

What does the agent of change need to do?

Under Clause 53.06, there are different requirements for a live music entertainment venue and a noise sensitive residential use:

- 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 new residential development 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 the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826, Environment Protection Authority, November 2020).
 - » Outdoor live music entertainment venue to below 45dB(A), assessed as an Leq (equivalent continuous sound level) over 15 minutes.

Noise attenuation

There are various ways in which a live music entertainment venue or a new residential development can attenuate noise. While some techniques can be relatively easy to achieve and low-cost, others can be complex and expensive. Figure 5 opposite provides examples of noise attenuation measures in Planning Practice Note 81 which gives guidance on live music and entertainment noise. While these measures will be helpful, some may have a limited overall effect on noise emissions in different circumstances. An acoustic engineer can advise on measures that are capable of achieving the relevant planning requirements.

FURTHER INFORMATION

Appendix A, Technical Planning Report, sections:

- › 3.3 Planning Policy Context for live music in the St Kilda Live Music Precinct Study Area
- › 3.5 Clause 53.06 – Live Music Entertainment Venues
- › 3.10.1 Planning Practice Note 81 Live Music and Entertainment Noise

Appendix C, Noise Analysis Technical Report, section:

- › 6 Agent-of-Change Principle and Residential Encroachment

Examples of noise attenuation measures

LIVE MUSIC VENUES

The following measures may help achieve the noise attenuation requirements in the Victorian Planning Provisions for live music venues:

- implementing a venue management plan focused on minimising noise
- positioning entertainment rooms, the stage and loudspeakers to increase the distance between the noise source and any noise sensitive residential use
- orienting the stage or loudspeakers of external entertainment spaces to direct noise away from any noise sensitive residential use
- incorporating measures such as acoustic glazing, wall, ceiling and roof construction
- sealing gaps, joints and service penetrations and using acoustic insulation
- using setbacks and acoustic fencing
- limiting noise leakage through the use of vestibule / sound-lock entry arrangements
- installing a sound limiter to cap the volume of any amplified sound to an appropriate level.

NOISE SENSITIVE RESIDENTIAL USES

The following measures may help achieve the noise attenuation requirements in the Victorian Planning Provisions for noise sensitive residential uses:

- locating noise-sensitive rooms (particularly bedrooms) away from significant noise exposure by using spaces like walkways, laundries and storage as a buffer
- using acoustic glazing, wall, ceiling and roof construction
- sealing gaps, joints and service penetrations and using acoustic insulation
- using setbacks and acoustic fencing
- using a noise masking system (for example by relying on heating, ventilation or air-conditioning noise).

Figure 5. Examples of measures included in Planning Practice Note 81 that can help to achieve noise attenuation requirements for live music venues and noise sensitive residential uses.

St Kilda Live Music Precinct

The Live Music Precinct is focused on several mixed-use areas in St Kilda as well as a network of public open spaces located along the foreshore of Port Phillip Bay and The Esplanade.

The proposed Live Music Precinct boundary is shown in the figure opposite. This includes areas of planning policy significance as follows:

- St Kilda Major Activity Centre (MAC), comprising the Acland Street and Fitzroy Street retail strips
- Inkerman / Grey Street Local Activity Centre (LAC)
- Part of the Greeves Street Mixed Activity Precinct (MAP)
- St Kilda Foreshore area including Catani Gardens, South Beach Reserve and the St Kilda Triangle site.

In line with the agent of change principle discussed in the previous section, a 50 metre buffer has generally been applied beyond the areas described above. This is to indicate that:

- Noise attenuation will not only be required for new development within the areas described above, but also within the 50 metre buffer from any existing live music entertainment venues.
- New live music entertainment venues are generally not supported within the 50 metre buffer or outside of the precinct boundary.

If the edge of the buffer occurred within a property boundary, it was extended to the furthest edge of that land parcel to ensure the entire property is covered by the buffer.

FURTHER INFORMATION

Appendix A, Technical Planning Report, sections:

- › 3.3.2 Local Planning Policy for St Kilda

Live music in the precinct

The map opposite shows existing and potential live music locations within the precinct. This reveals the extent to which the precinct already supports different forms of live music.

Existing live music locations

Based on data provided by the City of Port Phillip, there are over 60 live music locations within, or in close proximity to, the proposed precinct. These locations are predominantly clustered within the Acland Street and Fitzroy Street retail strips. There are also several outdoor locations in various parks located along or near the St Kilda Foreshore area.

It is important to note that the locations mapped in Figure 6 are aligned with the City of Port Phillip's definition of live music as described in the Live Music Action Plan. While the majority of locations host live bands or DJs on a regular or occasional basis, other businesses that form part of the wider music ecosystem, such as recording studios, are also included.

Potential live music locations

A summary of planning permits and liquor licences provided by the City of Port Phillip indicates that there are over 50 additional locations that could potentially operate as live music venues.

Extent of regular live music

The map in Figure 7 shows how many of the existing live music locations in the precinct host regular live music performances. Based on analysis by the City of Port Phillip, a venue was classified as hosting regular live music if there are more than two performances each week, noting that for some locations this may vary seasonally. The map indicates that approximately 50 per cent of existing live music locations host regular performances. The map also shows where outdoor live music events are taking place.

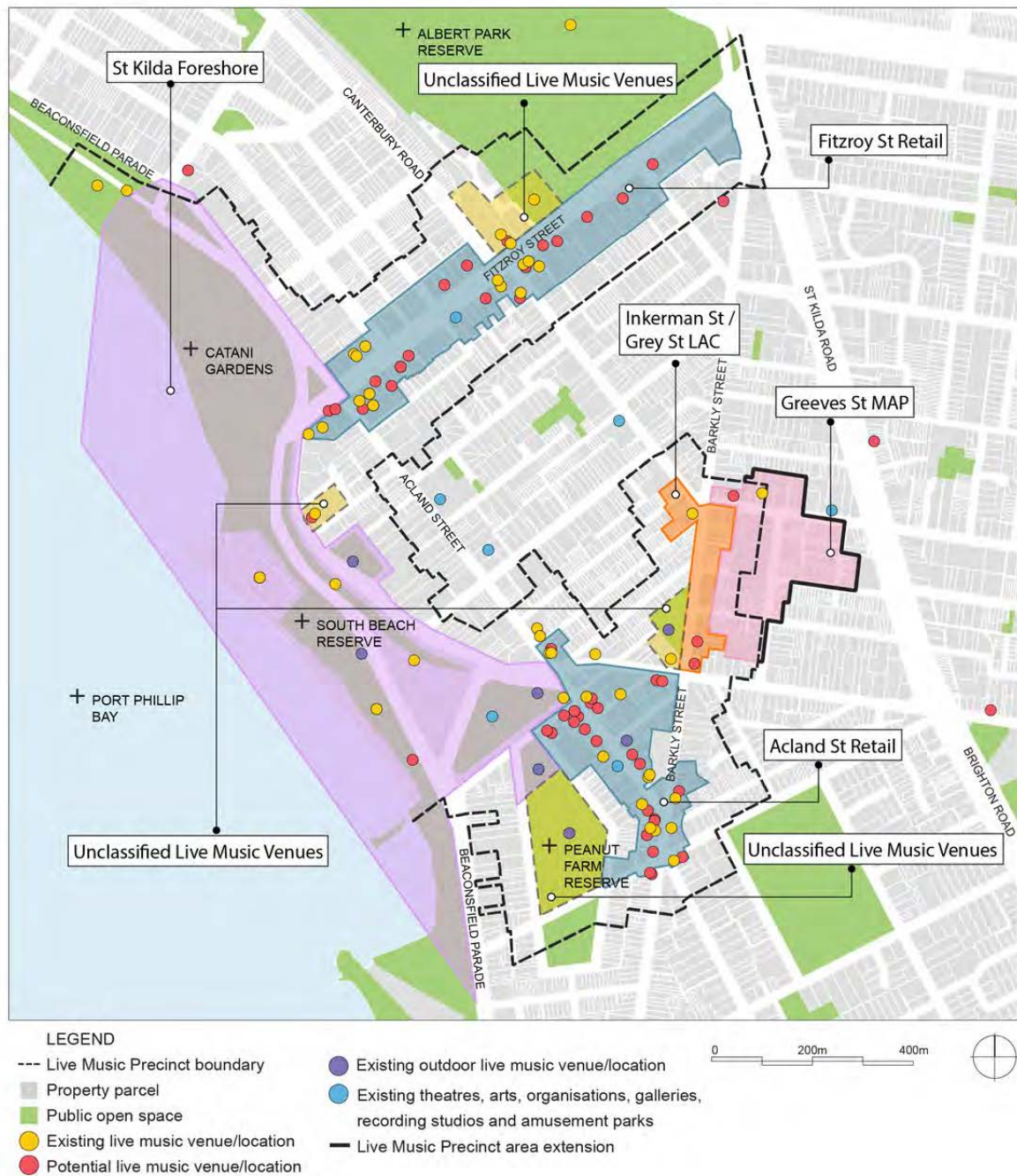


Figure 6. Map of existing and potential live music locations within the St Kilda Live Music Precinct.

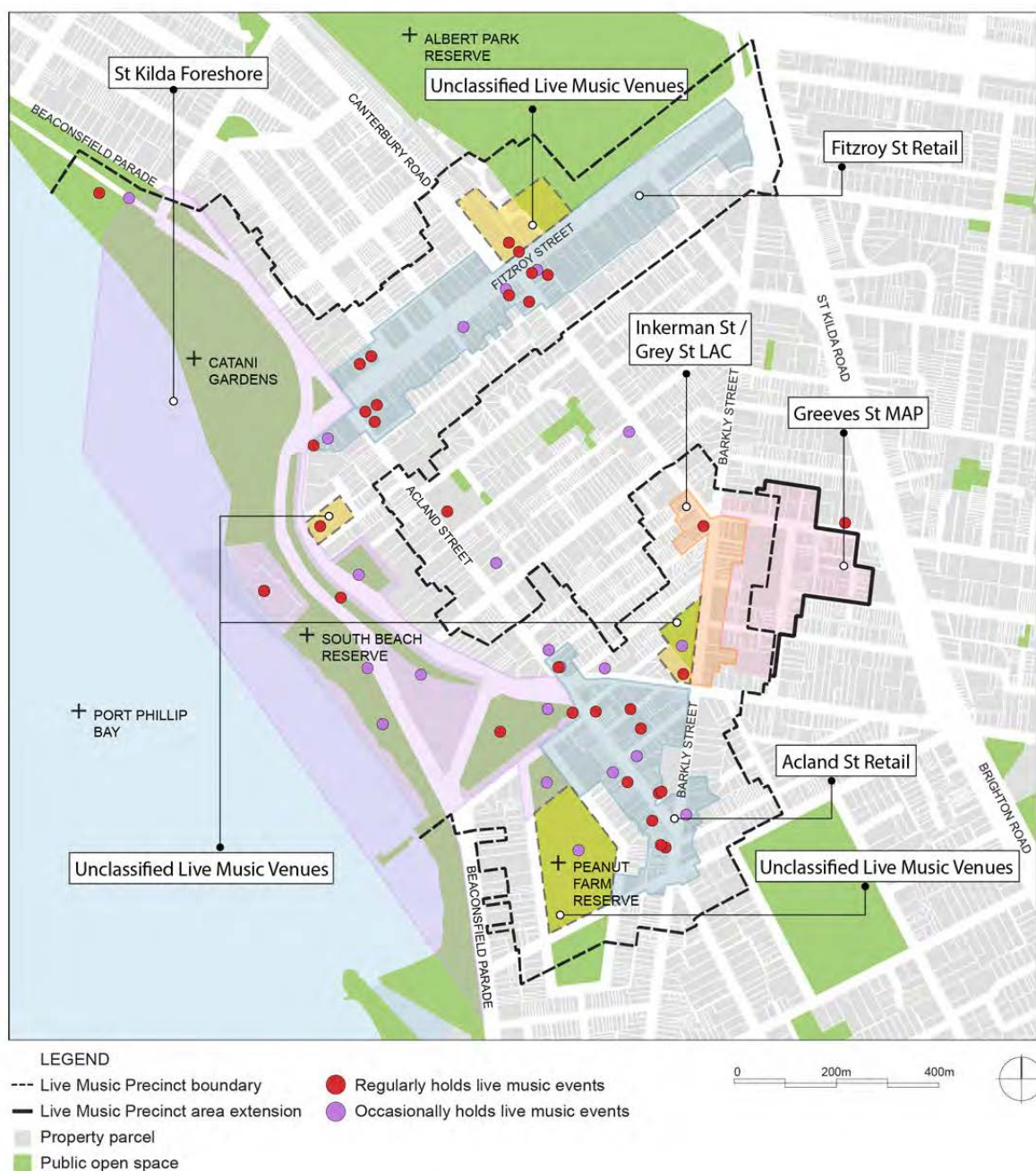


Figure 7. Map comparing live music locations that host regular and occasional performances.

Success factors for live music precincts – how is St Kilda currently performing?

The following section provides an overview of a proposed framework for assessing success factors for live music precincts. The existing context within the St Kilda Live Music Precinct is then assessed against this framework to understand how the area is performing today.

Developing the framework

A range of documents were reviewed to formulate a list of key attributes and success factors for Live Music Precincts. Documents included research papers, policy, strategies and case studies. As Live Music Precincts are an emerging concept in Australia, it is important to note that these documents are largely future-focused.

Generally, successful Live Music Precincts provide a diverse entertainment offer to visitors within an environment that is inclusive, safe and easy to navigate. Musicians and venues are supported directly by Council and in-directly by the vibrancy of the area. Live music venues operate in-line with best practice and the music industry as a whole is supported through the provision of space to perform, create, learn and collaborate. The key attributes and success factors have been synthesised into three categories:

1. SPATIAL ATTRIBUTES

Spatial attributes relate to the physical environment of the precinct and include the quality of the public realm, frequency of public transport, accessibility and the diversity of spaces.

2. VENUE ATTRIBUTES

Venue attributes cover key factors for successful live music venues and include venue operation, sound management, access and safety.

3. GOVERNANCE ATTRIBUTES

Governance attributes relate to actions and initiatives that Council are directly responsible for that support a thriving live music precinct. This includes Council policies, strategies, support and funding, along with Council's advocacy role to State Government, the music industry and other stakeholders.

While the framework provides a robust method for assessing the precinct, it is important to note that components of the framework are outside the scope of this project and have not been assessed at this point in time. Elements of the framework also require the collection of additional information, in particular from venue operators. Further detail on the attributes within each of the three categories is provided in Appendix G.

Initial findings

The assessment of St Kilda shows several attributes are already in place or contributing towards the success factors for live music precincts identified through our research. This includes:

- Initiatives and actions by Council such as establishing a project working group, undertaking engagement with the community and stakeholders, and providing support to venue operators, festivals, events and musicians through funding programs.
- Spatial attributes related to the diversity of venues and spaces in the precinct, the high level of public transport accessibility, and the relative ease of move and access for patrons within the precinct.

Table 1 provides further detail on the initial findings from our assessment of the St Kilda Live Music Precinct.




FURTHER INFORMATION

Appendix G, Assessment Framework: Live Music Precinct Success Factors






How is St Kilda performing?

The following framework is proposed to assess how the St Kilda Live Music Precinct is performing against key attributes and success factors for live music precincts identified through our research. While an initial assessment of some attributes has been undertaken using desktop research, other attributes will require further stakeholder engagement and additional data is required to robustly assess all attributes. The framework could be used on a regular basis, potentially annually or biannually, providing a longitudinal assessment of how the precinct is performing.

The following categories have been used to guide the assessment of each attribute.

-  Meeting or exceeding expectations
-  Generally meeting expectations
-  Need for improvement





Spatial attributes

KEY ATTRIBUTE	HOW IS ST KILDA PERFORMING?	ASSESSMENT
Diversity of spaces	<p>Diversity of live music industry spaces:</p> <ul style="list-style-type: none">• There are a range of differently sized spaces for live music performance, from smaller music bars to large concert venues such as The Palais Theatre.• There are both indoor and outdoor spaces for live music performance. Many open spaces across St Kilda host live music these including South Beach Reserve.• Live music venues and events present a range of musical genres.• There are a limited number of businesses that provide space for rehearsal, production, teaching and associated services including equipment hire and retail.• Further research is required to assess the affordability of venues and spaces for venue operators, musicians and businesses.• Venues serve as anchors and attractors including The Palais Theatre, The Espy, The National Theatre, The Prince Bandroom and Memo Music Hall. <p>Diversity of other uses within St Kilda:</p> <ul style="list-style-type: none">• St Kilda offers a variety of complimentary uses including hospitality venues (cafes, bars and restaurants), shops, galleries and theatres.• In St Kilda there are a range of community facilities that provide multi-functional spaces for hire, however, there are no dedicated music spaces in these community facilities.• Further research is required to assess the extent to which other businesses work with the live music industry and live music venues to host and support live music.	 
Safety	<ul style="list-style-type: none">• Further research is required to assess safety, including pedestrian prioritisation in the public realm, as well as rest and recovery spaces for patrons.• A municipal wide study indicated that 95.5% of residents felt safe walking alone during the day while 64.9% felt safe walking along in their local area after dark.	
Public transport and ride-sharing	<ul style="list-style-type: none">• St Kilda is accessible via multiple tram routes including route 3, 12, 16 and 96.• Trams run regularly and the 96 tram is part of the Night Network service.• The closes trains are at Balaclava Station.• Further research is required to assess the location and extent of taxi ranks along with drop off/pick up areas for ride share services.	
Precinct accessibility	<ul style="list-style-type: none">• Further research is required to assess the accessibility of the precinct for all genders, abilities, cultural backgrounds, ages and socio-economic backgrounds.	

Venue attributes

KEY ATTRIBUTE	HOW IS ST KILDA PERFORMING?	ASSESSMENT
Venue operation	Further research, data and stakeholder engagement required.	-
Sound management	Further research, data and stakeholder engagement required.	-
Accessibility	Further research, data and stakeholder engagement required.	-
Safety	Further research, data and stakeholder engagement required.	-
Diversity and inclusion	Further research, data and stakeholder engagement required.	-

Governance attributes

KEY ATTRIBUTE	HOW IS ST KILDA PERFORMING?	ASSESSMENT
Live music policies and strategies	<p>The City of Port Phillip have produced multiple strategies that contain objectives to support the live music scene in St Kilda. The Live Music Action Plan is a key document for supporting live music which aims to future-proof live music in Port Phillip.</p> <p>Existing strategies and policies are informed by community and stakeholder engagement, and include strong visions for the future of live music in St Kilda along with actions and outcomes to achieve the vision.</p> <p>It is important that strategies and policies are regularly evaluated and updated to ensure issues and opportunities for the Live Music Precinct are addressed to facilitate the evolution of the precinct.</p>	
Stakeholder engagement	<p>The City of Port Phillip have engaged with a range of stakeholders including the Department of Transport and Planning, Environment Protection Authority, Creative Victoria, Music Victoria, venue operators, musicians, local residents and developers.</p>	
Council support	<p>The City of Port Phillip has online information about planning permits and how to lodge an application. There is an opportunity to improve the legibility of this service, especially with regard to applications associated with operating a live music venue or event.</p> <p>The City of Port Phillip organises and assists with public events across St Kilda including the St Kilda Festival and The Port Phillip Mussel and Jazz Festival.</p> <p>The City of Port Phillip promotes local events through the 'What's On' page of the Council website.</p>	
Council funding	<p>The City of Port Phillip provides a range of grant programs for the Live Music Industry, including:</p> <ul style="list-style-type: none"> Locals Playing Locals — a live music support scheme where Council provides funding for artist fees to encourage local venues promoters, and event managers to plan live music events. Cultural Development Fund — a grants program to support artists, arts and cultural organisations and creative community projects. This program is offered across 3 different sub categories; Festivals and Events, Key Organisations and Projects. The City of Port Phillip also offers subsidised rental of key facilities including the Town Hall and The Palais Theatre, to facilitate inclusive access. <p>Information on available funding and grants is available on the Council website along with application forms and application guidance.</p>	
Council Working Group	<p>Council has established a Live Music Precincts Working Group.</p>	

Part 2. Issues and challenges



Identifying the issues and challenges

Managing noise from live music venues in an established area is challenging.

The following section discusses key issues and challenges that will influence the extent to which specific opportunities identified in this report will assist in supporting the development of a Live Music Precinct.

Residential dwellings in the St Kilda Live Music Precinct

It is important to consider the extent of existing residential dwellings and future population growth within the Live Music Precinct.

Existing residential dwellings

The resident population for the suburb of St Kilda in 2021 was 19,490, living in 14,167 dwellings. While the suburb covers a wider area than the Live Music Precinct, the map opposite shows the residential population in the precinct from the 2021 census. It is clear from this data that there is a substantial existing residential population.

Future growth

According to id Consulting, the 2023 population forecast for the St Kilda Activity Centre is 15,507, and is forecast to grow to 17,662 by 2041. This equates to 2,155 additional residents or a change of 13.9%. The average household size in the suburb of St Kilda is 1.64 persons per dwelling. Based on the forecast of 2,155 additional residents, this would equate to an additional 1,314 dwellings.

The Municipal Planning Strategy of the Port Phillip Planning Scheme identifies that a 10 per cent population growth is forecast for St Kilda by 2031. This growth will predominantly occur in the St Kilda Road South Precinct which is located to the east of the St Kilda Live Music Precinct.

Findings

As discussed previously, the agent of change principle (Clause 53.06 in the planning scheme) assigns responsibility for noise attenuation measures to the 'agent of change' – a new use or development that is introduced into an existing environment. This could apply to:

- a new live music venue
- an existing live music venue that is expanding
- a new residential development.

The agent of change principle will assist existing live music venues where there is a proposal for new residential development nearby, although there is a relatively low rate of residential population growth forecast in the area.

With the extensive number of existing live music venues and residential dwellings within the precinct, it is highly likely that any new or existing live music venue, as well as any residential development that require planning permits will be the 'agent of change'.

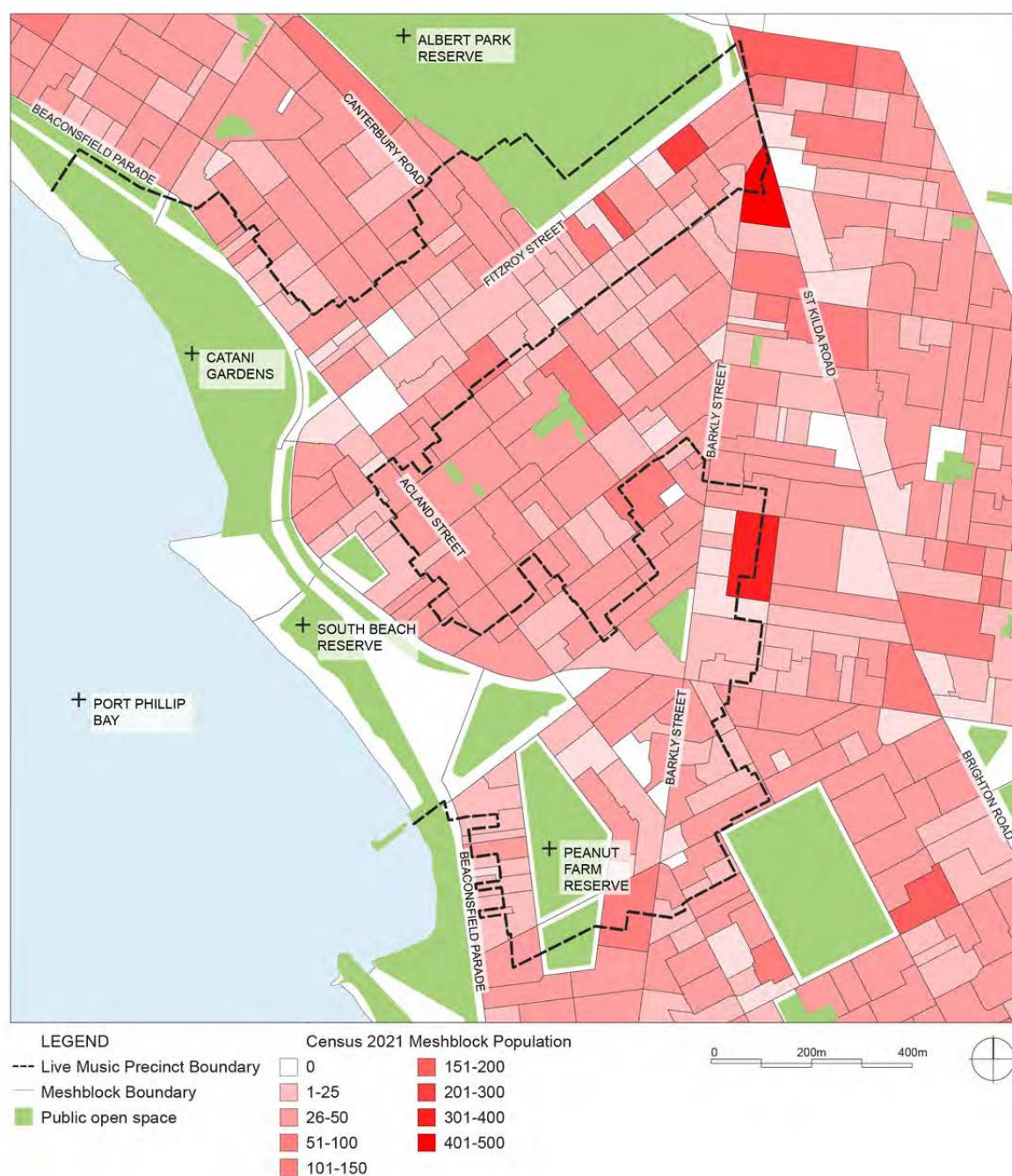


Figure 8. Residential populations from 2021 Census data in the St Kilda Live Music Precinct and surrounding areas.

Requirements of the Environment Protection Act 2017

Noise legislation is regulated under the Environment Protection Act 2017 (EP Act). The EP Act includes regulations and protocols that need to be followed when assessing whether a noise emission is reasonable, including the Environment Protection Regulations 2021 (EP Regulations) and EPA Publication 1826 (Noise Protocol). For licenced venues with any music, what is reasonable is defined by the EP Act, EP Regulations and Noise Protocol.

All Victorians, including licenced premises, must also minimise the risk of harm to human health and the environment as a result of noise from their premises, under the General Environmental Duty (GED) contained within the EP Act. This is used to assess environmental risk and should not be confused with the regulated noise limits which assess what is unreasonable. Under the GED, the elimination or mitigation of environmental risk typically means more stringent controls than what is required to meet noise levels.

Any live music venue can therefore be requested to demonstrate that their activities or premises have assessed and eliminated risk by the implementation of all reasonable and practicable controls, even if they are meeting the prescribed noise limits.

Findings

The GED is a relatively new concept under the revised Environmental Protection Framework and has not been broadly tested with regard to licenced premises or music events. A potential scenario could occur where a live music is complying with the regulated noise limits and the agent of change principle (Clause 53.06) when utilised. However, the venue may still be requested under the GED to further decrease amplification levels or install additional soundproofing if a risk is identified, such as via noise complaints. Such a scenario would likely conflict with Council's objectives to be more supportive of and prioritise live music within the precinct.

The current regulatory framework does not allow for acceptable noise levels to be standardised across a broad area like the Live Music Precinct. A noise survey needs to be undertaken on a site-by-site basis to capture site

specific factors, including:

- Background noise level exposure (such as from road traffic) to a new residential building, which can vary greatly in built up areas.
- The proximity of a residential building to a live music venue.
- The level of live music noise exposure at the new residential building.

Standardising noise levels and attenuation requirements broadly across the Live Music Precinct would require more significant changes to noise legislation under the EP Act.

FURTHER INFORMATION

Appendix C, Noise Analysis Technical Report, section:
› 2.1 Legislation

Planning Framework in Practice

The current regulatory framework involves multiple legislative approvals and associated conditions. In practice, the pain points of the assessment framework arise when:

- Identifying and defining a live music entertainment venue under Clause 53.06 which informs the basis of a noise assessment.
- Considering as-of-right land use and developments which do not require a planning permit under the land use zone.
- Considering existing uses and non-compliant noise levels from music venues.
- Drafting appropriate permit conditions.
- Enforcing permit conditions including the assessment and measurement of noise.
- Multiple regulatory frameworks that result in duplicative or contradictory approvals and associated conditions.
- Identifying a live music entertainment venue.

Findings

For new residential development, it is important that existing live music entertainment venues are identified early in the design process so that benchmarks for noise attenuation can be established and the building can be designed to protect both new residents and existing music venues. Failing to do this can require costly legal intervention through the planning and appeals process. Numerous decisions by the Victorian Civil and Administrative Tribunal (VCAT) highlight the issues of the planning framework in practice, with a selection of VCAT cases provided in the break out box below.

FURTHER INFORMATION

Appendix A, Planning Technical Report, section:

- › 3.11.2 Identifying and defining a Live Music Entertainment Venue under Clause 53.06
- › 3.11.3 Existing Uses and non-compliant noise levels
- › 3.11.5 Permit Conditions

VCAT cases

QP99 PTY LTD V YARRA CC [2018] VCAT 427

This case found that the Clifton Hill Brewpub, which had previously hosted live music acts, but not in recent times, was deemed a live music venue as Clause 53.06 does not specify a minimum number or frequency of live music acts. The implication of this case is that food and drink premises which may have hosted live music acts in the past could be overlooked when assessing the location of live music venues.

ARA BUILDERS AND DEVELOPERS PTY LTD V MORELAND CC [2014] VCAT 1306

This case highlighted that a recording studio (not defined in the Planning Scheme) needed to be determined on the particular facts and circumstances, including whether Clause 53.06 applied. The implications of this case is that a recording studio can often be hired out for rehearsal uses, and may also be overlooked as a live music venue.

MYLONAS V DAREBIN CC [2016] VCAT 1583

In this case, a music venue with existing use rights exceed the relevant current noise standard, but complied with the noise standard at the time their planning permit was issued. The implication of this case is that music venues with existing use rights can continue to operate by complying with the noise regulations at the time of their planning application, and that any new residential development (the agent of change) would need to undertake measures that attenuate noise from the existing venue.

REINER V GREATER BENDIGO CC [2020] VCAT 1149

This case found that requiring an acoustic report as a permit condition was an inappropriate and unacceptable way to protect existing live music venues from residential encroachment. This is because noise attenuation measures need to be considered at the design stage. Requiring an acoustic report as a permit condition after the design has been given approval could result in an impractical outcome if the noise attenuation measures identified by the acoustic report require a significantly different design outcome.

Live music entertainment where planning permission is not required

Keeping track of the true number and location of live music entertainment venues is challenging because live music entertainment can occur without planning permission. Furthermore, live music events and alfresco dining on public land also do not require planning permission for use or development under the Port Phillip Planning Scheme. These spaces are not considered a live music entertainment venue under Clause 53.06 and therefore do not benefit from protection from residential encroachment.

Findings

Appropriate systems and resources are required to ensure that the number of live music entertainment venues where planning permission is not required are recorded and kept up to date, particularly within live music precincts.

FURTHER INFORMATION

Appendix A, Planning Technical Report, section:

- › 3.7 Live Music on Public Land
- › 3.11.4 As-of-right use and development

Assessing noise complaints

The St Kilda Live Music Precinct is home to a range of activities which can generate noise impacts for sensitive uses in the area, such as residential apartments. This can include noise from trams and road traffic, people in public spaces, waste collection, as well as retail and commercial activity including live music venues and licensed premises such as bars, cafes, restaurants and nightclubs.

Different types of noise is also generated from venues that host live music, including pre-recorded music, deliveries, waste collection, and patron movements to and from such premises. It is also important to note that most live music performances in venues typically finish by 11pm where as nightclubs and bars with DJs tend to be open much later.

Findings

Noise can have a significant impact on residents which can result in noise complaints being lodged with Council. A review of City of Port Phillip noise complaint data also confirms that noise complaints significantly decreased during the COVID-19 pandemic period as a result of restrictions on the operation of live music venues. As businesses have started to reopen, noise complaints have more recently increased to pre-pandemic levels. However, the available noise complaints data makes it difficult to ascertain the proportion of noise complaints that are related to live music, or to music noise more generally.

Existing use rights

Within an established mixed use area such as St Kilda, there may be many live music entertainment venues which do not comply with the current noise regulations or dwellings which were not assessed as noise sensitive residential uses under the agent of change principle (Clause 53.06).

Some live music venues may have also been permitted to operate under existing use rights which do not conform to their present land use zone. An example of existing use rights would be a pub that can continue to operate in an area that is zoned residential in the Planning Scheme. The pub can continue to operate legally on the basis that it was operating prior to the current land use zone being in place.

As existing use rights are site-specific, it is not possible to provide a general assessment of matters related to existing use rights on a precinct-wide scale. A live music venue may also be permitted to rely on existing use rights established under the Planning & Environment Act 1987 and the Port Phillip Planning Scheme, even when a live music venue operates under an existing planning permit.

Findings

It is important to note that while live music venues with existing use rights can continue to operate, these rights are not conducive to the intensification or growth of live music venues. This is because existing use rights are highly limiting and will one day cease.

FURTHER INFORMATION

Appendix A, Technical Planning Report, sections:

- › 3.8 Clause 63 – Existing Permitted Uses & Existing Use Rights

Appendix C, Noise Analysis Technical Report, section:

- › 6 Agent-of-Change Principle and Residential Encroachment

Clearer policy direction for live music entertainment venues

State Planning Policy (Clause 13.07-3S) supports the identification of areas where live music entertainment venues are encouraged as well as areas where there are high concentrations of licensed premises or clusters of live music venues. However, existing local planning policies do not clearly recognise live music as a priority activity in the St Kilda activity centre context.

Findings

There is an opportunity to more overtly support the establishment of live music entertainment venues within the St Kilda Live Music Precinct, identify areas where live music is encouraged, and where the agent of change principle should be applied.

FURTHER INFORMATION

Appendix A, Technical Planning Report, sections:

- › 3.3.2 Local Planning Policy for St Kilda

Part 3. Opportunities and actions



Summary of key opportunities and actions

This section summarises the key opportunities identified through the technical analysis undertaken in this work. It also includes a number of actions to further strengthen the evidence base for establishing and supporting a live music precinct.

Opportunities

1. Designate sub-precincts within the wider study area
2. Extend the agent of change principle
3. Provide funding for sound attenuation to live music venues
4. Continue to engage with stakeholders

Actions

1. Develop databases for live music venues and noise complaints
2. Develop clear communication material
3. Undertake further economic and social research

Each of these are described in further detail on the following pages.



Image 2. Live music performance at The Espy in St Kilda.

Opportunity 1. Designate live music venue categories and sub-precincts

Categories of live music venues in combination with the designation of sub-precincts would allow certain types of live music to be encouraged in appropriate locations.

Live music venue categories

Live music entertainment can take place in a variety of music venues which can be categorised based on various factors including:

- the frequency and regularity of use for live music performances
- whether the venues are located on public or private land
- whether the venue has a liquor licence
- the capacity or scale of the venue
- the land use zoning context of where venues are located; and
- the likely residential amenity impacts based on operational requirements and proximity to residents.

Based on these factors, the following five categories have been developed to inform the live music precinct matrix:

1. Public Land - Occasional Live Music
2. Public and Community Venues - Occasional Live Music
3. Private Venues - Regular Live Music, Low noise impact
4. Private Venues - Regular Live Music, Medium noise impact
5. Private Venues - Regular Live Music, High noise impact

Table 1 provides further information on each category with the different planning permit requirements that would apply to each category identified in Appendix B.

FURTHER INFORMATION

Appendix B, Planning Proposition Report, section:

› 2 Potential Categories of Live Music Venues

Live music venue categories

CATEGORY	DESCRIPTION	INCLUDES
1. Public Land Occasional Live Music	Venues that are used for pop-up or occasional live music performances and located on public land.	<ul style="list-style-type: none"> • Music events or festivals on public land, such as public reserves, road and road reserves, and car parks where appropriately zoned • Use of public land by adjoining private venues, such as alfresco dining • Busking on public land
2. Public and Community Venues Occasional Live Music	Venues that are used occasionally for live music performances and located in public and community venues.	<ul style="list-style-type: none"> • Civic/public halls
3. Private Venues Regular Live Music, Low noise impact	Permanent venues in private ownership and operation that generate low amenity impacts in terms of noise emissions due to their size and operational characteristics. An example would be a venue that hosts regular amplified acoustic performances in the afternoon or early evening.	<ul style="list-style-type: none"> • Rehearsal studios • Recording studios • Food and drink premises (no liquor licence)
4. Private Venues Regular Live Music, Medium noise impact	Permanent venues in private ownership and operation that generate medium amenity impacts in terms of noise emissions due to their size and operational characteristics. An example would be a venue that hosts regular amplified performances by rock bands to 11.00 pm at night.	<ul style="list-style-type: none"> • Rehearsal studios • Food and drink premises (licensed) • Residential hotel/Hotel • Arts organisations • Theatres
5. Private Venues Regular Live Music, High noise impact	Permanent venues in private ownership and operation that generate high amenity impacts in terms of noise emissions due to their size and operational characteristics. An example would be a nightclub with DJs that operates late into the night.	<ul style="list-style-type: none"> • Nightclubs • Function centres • Place of Assembly

Table 1. Proposed live music venue categories.

Sub-precincts

The pattern of existing and preferred future land uses is not uniform across the St Kilda Live Music Precinct. There are some locations where the performance of live music is relatively more compatible with how that area currently functions, or could function in the future, including co-existence with other noise sensitive uses. For example, existing live music venues and places with future potential for the performance of live music (e.g. including pubs, taverns, hotels, licensed clubs and restaurants) are predominantly concentrated in the St Kilda Major Activity Centre and along the St Kilda Foreshore area.

The Inkerman Street/Grey Street Local Activity Centre and the Greeves Street Mixed Activity Precinct currently have a lower concentration of existing live music venues. However, under the current land use zoning that applies to these locations, it is possible to seek permission for live music related activities. Live music venues in these areas would need to have low noise impacts due to the characteristics of these areas and their proximity to existing and future noise sensitive residential uses.

Based on these factors, there are opportunities to designate sub-precincts within the study area, as shown in Figure 9, and provide direction on the types of music venues that are encouraged in these locations:

1. St Kilda Major Activity Centre which incorporates the Acland Street and Fitzroy Street retail strips
2. Inkerman/Grey Street Local Activity Centre
3. St Kilda Foreshore
4. Unclassified live music venues and additional Public Open Space venues
5. Parts of the Greeves Street Mixed Activity Precinct

Figures 11-14 show zoomed in views of the map in Figure 9. Figure 10 shows the sub-precincts in relation to land use zones. Table 2 provides further information on each sub-precinct while Appendix B provides a more detailed rationale for the sub-precincts.

It is also important to note the proposed boundary has been extended to the north of Catani Gardens to include the West Beach Pavilion at 330A Beaconsfield Parade. This venue regularly hosts music events including an outdoor live music program over Summer.

FURTHER INFORMATION

Appendix B, Planning Proposition Report, section:

- › 5 Matrix of Live Music Venue Categories and Sub-Precincts

Sub-precinct areas

SUB-PRECINCT	DESCRIPTION
1. St Kilda Major Activity Centre which incorporates the Acland Street and Fitzroy Street retail strips	Covers the Commercial 1 Zoned area of the St Kilda Major Activity Centre, specifically the core retail area along Fitzroy Street between Prince Street and Acland Street, as well as along Acland Street.
2. Inkerman/Grey Street Local Activity Centre	Covers the Commercial 1 Zoned area of Inkerman Street/Grey Street Local Activity Centre
3. St Kilda Foreshore	Covers the St Kilda Foreshore area, including the St Kilda Triangle site.
4. Unclassified live music venues and additional Public Open Space venues	<p>Captures other live music venues and Public Open Spaces outside of but close to Areas 1-3 in various zones including:</p> <ul style="list-style-type: none"> • the old St Kilda Station redevelopment • National Theatre Melbourne • St Kilda Bowling Club • The “Epsy” Esplanade Hotel • Peanut Farm Reserve and J Talbot Reserve
5. Greeves Street Mixed Activity Precinct	Covers the Mixed Use Zone area of the Greeves Street Mixed Activity Precinct.

Table 2. Proposed sub-precincts within the St Kilda Live Music Precinct.

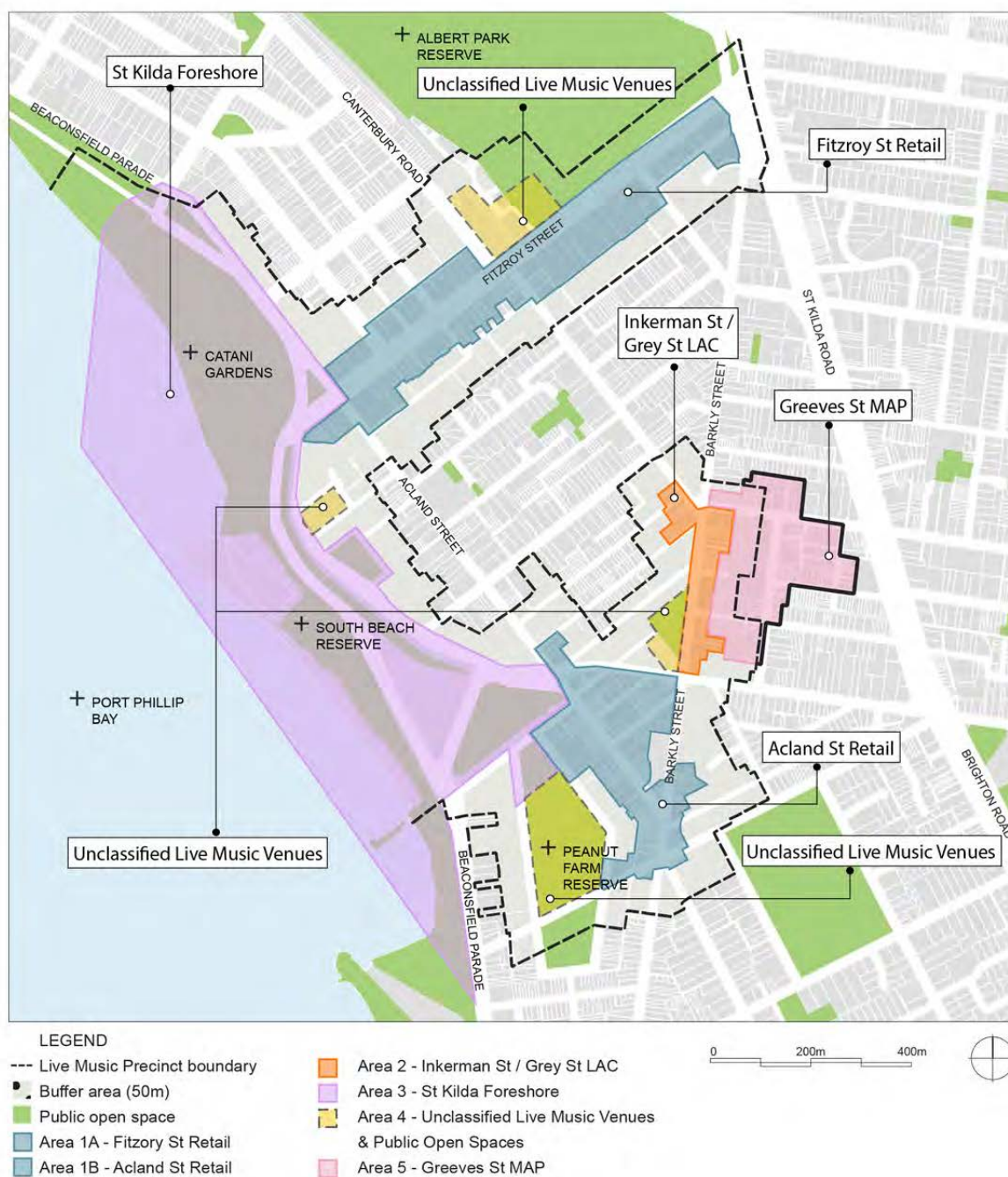


Figure 9. Map of the proposed sub-precincts within the St Kilda Live Music Precinct.

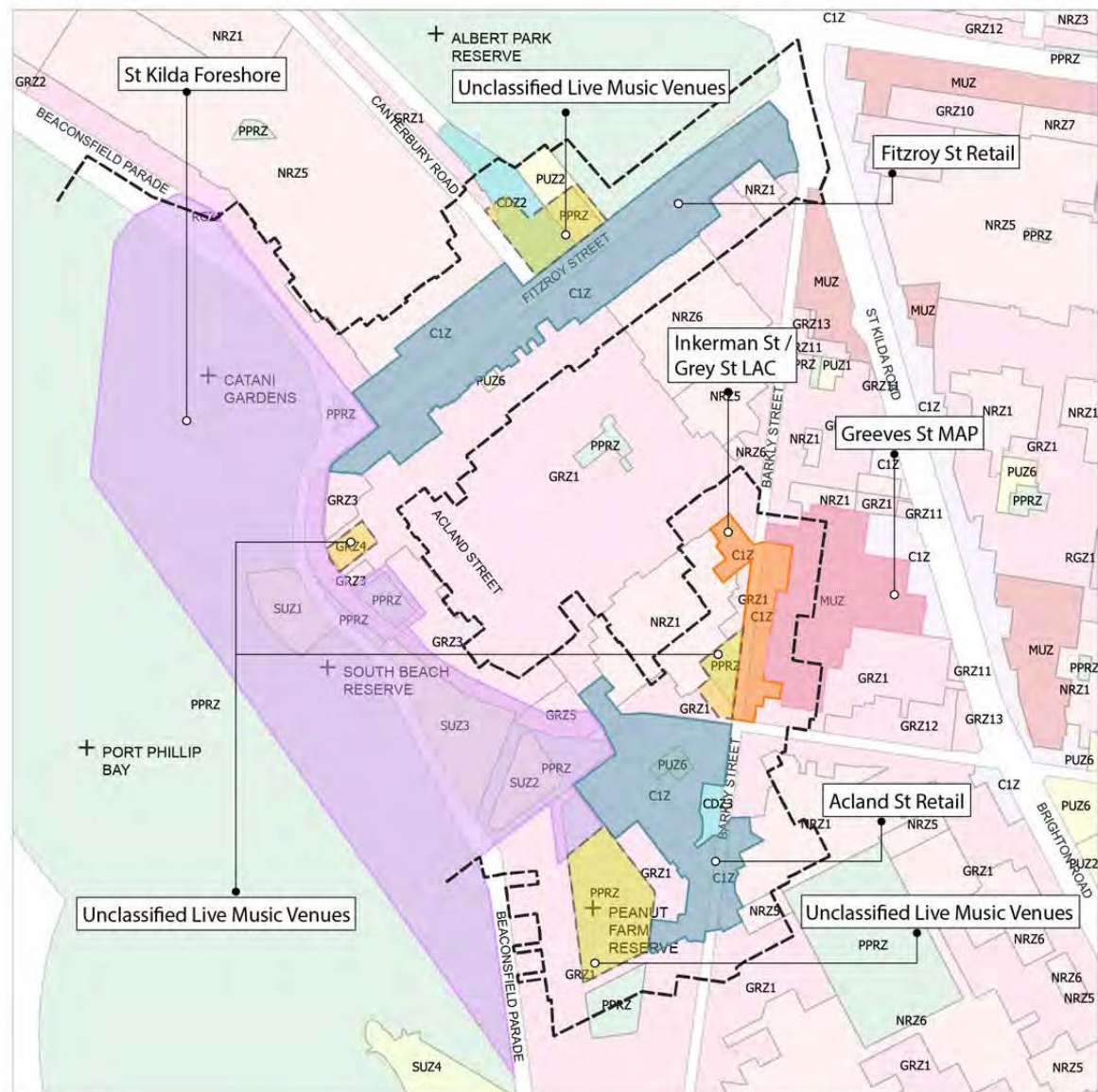




Figure 11. Map of the proposed sub-precincts within the St Kilda Live Music Precinct (detail).



Figure 12. Map of the proposed sub-precincts and land use zones within the St Kilda Live Music Precinct (detail).



Figure 13. Map of the proposed sub-precincts within the St Kilda Live Music Precinct (detail).

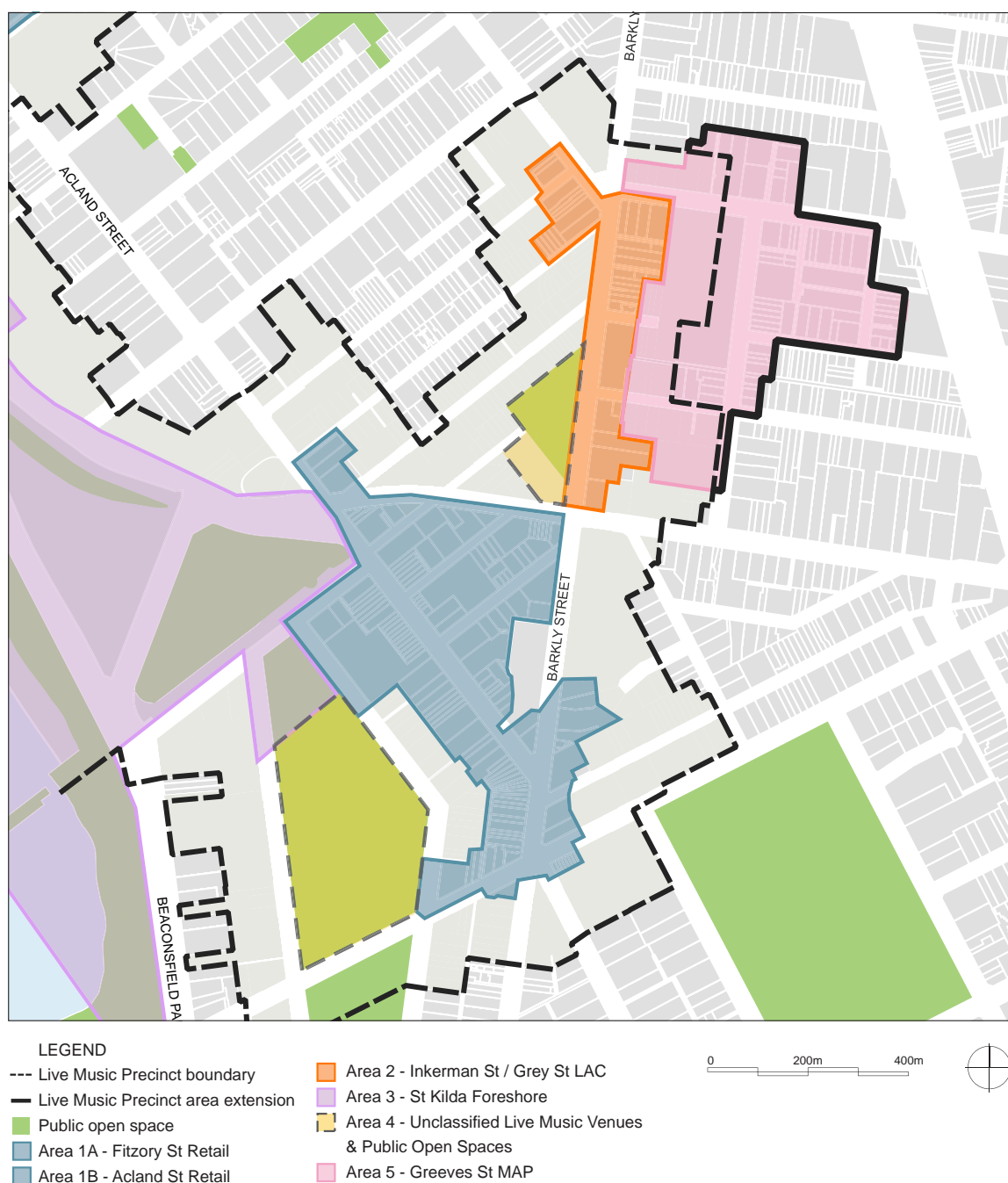


Figure 14. Map of the proposed sub-precincts and land use zones within the St Kilda Live Music Precinct (detail).

The following matrix has been developed to show the application of live music venue categories to associated sub-precincts, including the level of noise impact that would be anticipated in each. This matrix could be further reviewed to assist in the development of any communication tools for existing and new music venue operators and applicants proposing new noise sensitive residential uses.

Matrix of live music venue categories and sub-precincts




















LIVE MUSIC VENUE CATEGORIES					
	1. Public Land	2. Public and Community Venues	3: Private Venues Low noise impact	4. Private Venues Medium noise impact	5. Private Venues High noise impact
Live music frequency	Occasional	Occasional	Regular	Regular	Regular
SUB-PRECINCT					
1. St Kilda Major Activity Centre					
2. Inkerman/Grey Street Local Activity Centre					
3. St Kilda Foreshore					
4. Unclassified live music venues and additional Public Open Space venues					
5. Greeves Street Mixed Activity Precinct					

Table 3. Matrix summarising the application of live music venue categories to associated sub-precincts.



Image 3. Secret Police debut in 1978 (State Library of Victoria, photo by Rennie Ellis).

Opportunity 2. Extend the agent of change principle

The agent of change principle, described in Part 1 of this report, has been introduced into the Victorian Planning Provisions to manage the relationship between live music venues and residential uses.

The principle assigns responsibility for noise attenuation measures to the 'agent of change' – a new use or development that is introduced into an existing environment. In the context of the St Kilda Live Music Precinct, this could apply to a planning application for a new or an existing live music venue or a new residential development.

The agent of change principles has been introduced into Clause 53.06 (Live Music and Entertainment Noise) Within the Port Phillip Planning Scheme. Schedules can be prepared that extend how the agent of change principle operates. The following propositions describe how the clauses could be utilised to support the aims of the precinct, including a discussion of the likely benefits and limitations.

Proposition 1. Specify a Live Music Precinct

Clause 1.0 of the schedule to Clause 53.06 could be used to designate the proposed St Kilda Live Music Precinct study area, including the Greeves Street Mixed Activity Precinct.

This would require all applications for a new noise sensitive residential use to respond to the requirements of this Clause. This would also mean that noise sensitive residential uses within the precinct must meet the requirements of Clause 53.06-3 regardless of whether the proposal is within 50 metres of an existing live music entertainment venue or not.

Benefits

- For noise sensitive residential uses, the 'agent of change' principle is extended to a wider area rather than just within 50 metres of an existing live music entertainment venue.
- Noise sensitive residential uses beyond 50 metres can be attenuated against noise from live music venues, if the relevant noise assessment demonstrate that this is necessary.

Limitations

- This would not 'future proof' the potential for other sites across the precinct to be readily used as a live music entertainment venue in the future as there would be no requirement for noise sensitive residential uses, such as apartment buildings, to provide noise attenuation in anticipation of a potential future venues.
- Based on stakeholder interviews with the Department of Transport and Planning, noise sensitive residential uses would only be required to include attenuation measures that reduce noise levels from any existing venues.

FURTHER INFORMATION

Appendix B, Planning Proposition Report, section:

- › Proposition 1: Using clause 1.0 of the schedule to Clause 53.06

Proposition 2. Set an alternative noise attenuation standard

Further investigations could be undertaken in applying an alternative noise attenuation standard to noise sensitive residential uses within the Live Music Precinct. This could take the form of a noise insulation level that must be met at the boundary or exterior of any proposed future noise sensitive residential use.

An alternative noise attenuation standard could be given effect through Clause 2.0 of the schedule to Clause 53.06 and/or control such as a Design and Development Overlay (DDO) within the Port Phillip Planning Scheme.

To facilitate this outcome, Council would also need to advocate to the State Government for changes to the Environment Protection regulations. While there are examples of alternative noise standards being applied, such as Dockland Stadium, it is important to note that stakeholder interviews with Department of Transport and Planning, and Environment Protection Authority officers indicated that this outcome may be challenging to justify in other locations.

FURTHER INFORMATION

Appendix B, Planning Proposition Report, section:

- › Proposition 2: Using clause 2.0 of the schedule to Clause 53.06 and using a Design and Development Overlay (DDO) to set an alternative acoustic attenuation standard

Benefits

- Future proof locations within the Live Music Precinct where potential live music entertainment venues may establish.
- Improve the internal amenity of new dwellings, and the function of activity centres, by ensuring that new dwellings are constructed to minimise the impacts of noise, including live music.
- Simplify the acoustic assessment process and remove the requirement for individual acoustic assessments and attenuation requirements for new noise sensitive residential uses.
- Potentially help guide retrofitting of existing dwellings within the Live Music Precinct.

Limitations

- Existing and future live music entertainment venues would still need to satisfy the General Environmental Duty requirements that apply across the State under the current Environment Protection legislation for music venues, as well as satisfying the requirements of Clause 53.06 in the Planning Scheme.
- Achieving an alternative noise standard may impose substantial additional cost on new residential development. Additional analysis of any proposed alternative noise standard would need to demonstrate its practicality, cost, and benefits, including an assessment of the wider socio-economic benefits.

Proposition 3. Expand the definition of a live music entertainment venue

Clause 3.0 of the schedule to Clause 53.06 allows other venues used for the performance of live music to be included in the definition of a live music entertainment venue. This could include public halls, theatres, arts organisations, amusement parks, galleries and recording studios. Depending on the location of a specific venue, planning permit conditions such as allowable times for live music performances, allowable noise levels, or restrictions on the scale of venue could be included to manage potential amenity impacts.

This clause could be applied to the following venues within the Live Music Precinct:

- Theatreworks
- Allan Eaton Studios
- National Theatre Melbourne
- Catani Gardens
- Cleve Gardens
- Alfred Square
- South Beach Reserve
- O'Donnell Gardens
- Veg Out Community Gardens
- Linden New Arts
- Sacred Heart Church

Further rationale for the inclusion of these venues is provided in Appendix B.

Benefits

- Discrete and significant cultural live music venues can be listed and afforded protection from inappropriate residential development through applying the 'agent of change' principle to it.

Limitations

- Including these venues would trigger the requirement to attenuate noise in accordance with the agent of change principle (Clause 53.06) should any future expansion of operations require a planning permit.
- The addition of new live music venues into the planning scheme is a time-consuming and costly process. A simpler means could be to designate additional categories of venues within the potential St Kilda Live Music Precinct.
- The inclusion of venues which have infrequent music events (less than 6 times per year) may raise practical challenges as to how the proponents of a new residential development would measure the noise from a venue with such infrequent performances.

FURTHER INFORMATION

Appendix B, Planning Proposition Report, section:

- › Proposition 3: Using clause 3.0 of the schedule to Clause 53.06

Opportunity 3. Provide funding for sound attenuation to live music venues

Future proofing live music in St Kilda will require various measures which could include funding to support the soundproofing of venues and spaces. The following commentary draws on Enfield's wider expertise and learnings to provide initial information regarding soundproofing, with further detail provided in Appendix C:

- Soundproofing of venues can be a difficult and costly task, in particular for retrofitting existing spaces as opposed to new venues, and for spaces that do not have a dedicated band room.
- Desirable soundproofing options can often conflict with other building codes and regulations, including fire, patron and DDA egress as well as heritage requirements for older buildings.
- Venue operators are not necessarily the owners of the buildings. The cost of soundproofing can be a particular burden for tenants that operate on a limited lease period.
- In situations where acoustically treating nearby dwellings may be the most cost efficient approach, there are inherent issues with obtaining consent from property owners.
- While there is a perception that window glazing is the cure to many music noise issues, this is often not the case. Low-frequency attenuation requires difficult and costly construction that is not simply resolved by 'better windows'.
- Mixed use buildings within the precinct where there may be an existing or future ground floor venue with residential dwellings above can be particularly challenging for soundproofing.
- While noise limiters can sometimes be an effective tool in planning and enforcement, they are generally contrary to the objectives set out in this study to lessen the burden on live music venues within the precinct.

While there are challenges in soundproofing venues, there are examples of programs that have provided funding for this purpose including the State Government's Good Music Neighbours program which provided up to \$25,000 to support sound proofing and sound reduction projects.

FURTHER INFORMATION

Appendix C, Noise Analysis Technical Report, section:

- › 9.2 Other Practical Assistance for Live Music Venues

Opportunity 4. Continue to engage with stakeholders

A key challenge in ensuring that the St Kilda Live Music Precinct can better support live music venues is the extent of sensitive uses that exist through residential development in the area. Addressing this could require a significant change to enforcement policy. The Environment Protection Act and Environment Protection Regulations in particular are documents that do not lend themselves to amendment, though there may be limited scope to consider special provisions in EPA Publication 1826 (Noise Protocol) to help facilitate the aims of the Live Music Precinct. This is on the basis that the Noise Protocol has incorporated other Clauses, as well as Design and Development Overlays from the Planning Scheme. Establishing special provisions and limits in the Noise Protocol above those normally accepted by the EPA would require advocacy to State Government Ministers initially to gather support for any regulatory changes through the EPA.

FURTHER INFORMATION

Appendix C, Noise Analysis Technical Report:

- › Various sections of the report provide further information on stakeholder engagement.

Action 1. Develop databases for live music venues and noise complaints

The development of this report has revealed the need to improve the collection process and maintenance of data in relation to live music venues, residential development and noise complaints. A comprehensive and up-to-date database would assist with the following:

- Progress planning propositions supported by strategic justification that would enable the preparation of a Planning Scheme Amendment that will stand up to review and scrutiny at a Planning Panel.
- Provide statutory planners with the location of all live music venues and recent development activity to assist with the assessment of planning applications within the precinct.
- Provide Council with detailed information on noise complaints to ensure there is a clear understanding of how compliance issues were resolved and the extent to which live music venues may be breaching their obligations.
- Develop a publicly accessible map of live music venues in the precinct with information regarding hours of operation and frequency of live music or with a link to a non-static information source such as the venue website.

More specific guidance on the types of information and data to be collected is outlined below. This should be collected using consistent property identifiers so that data related to live music venues, development activity and noise complaints can be easily compared.

Live music venue data

- Location of live music venues (including pubs, restaurants and other food and drink premises)
- Type of venue
- Frequency of live music
- Hours of operation
- Type of liquor licence
- Mapping of a 50 metre buffer around the venue

Development activity data

- Was the live music venue or noise sensitive residential use assessed under the agent of change principle (Clause 53.06)?
- Was the venue or residential use determined to be the agent of change?
- If so, what attenuation measures were required?
- What permit conditions apply to the venue or residential use?

Noise complaints data

- What is the address of the source of noise?
- What type of noise, e.g. live music, DJ, recorded music, patron behaviour, bin collection, etc?
- Over what time frame was the noise an issue?
- What is the address of the complainant to determine if they are within 50 metres of the noise source?
- Was either the noise source or the property of the complainant assessed under Clause 53.06 and determined to be the agent of change?
- What assessment was undertaken to determine whether the venue was in breach of any noise obligations?
- What enforcement activity was undertaken?

Historical data

It would also be beneficial to undertake further assessment of historical data, where practical, to better understand the following:

- History of noise complaint data to determine typical sensitivity to live music noise impacts and trading hours; and
- History of residential encroachment within the municipality that has resulted in outcomes such as venues having to change operations or close, to better understand the perceived threat of residential encroachment.

Action 2. Develop clear communication material

Live music is a complex planning and regulatory environment. Developing guidelines that clearly explain how the planning and regulatory environment operates within the St Kilda Live Music Precinct will be crucial to ensuring that live music venue operators, residential developers, residents and other business understand their rights and obligations. Material could be prepared now to support the designation of St Kilda as a Live Music Precinct that provides information on the existing planning and regulatory context. This could draw on material in related guidelines, including:

- 'Council guidelines for Music Venues' prepared by Merri-bek City Council

- 'Acoustics for licensed premises, food & drink and live music venues' fact sheet prepared by Merri-bek City Council
- 'Best Practice Guidelines for Live Music Venues' prepared by Music Victoria.

The communications material could then be updated following any significant changes impacting the Live Music Precinct such as a Planning Scheme Amendment or updated noise regulations.

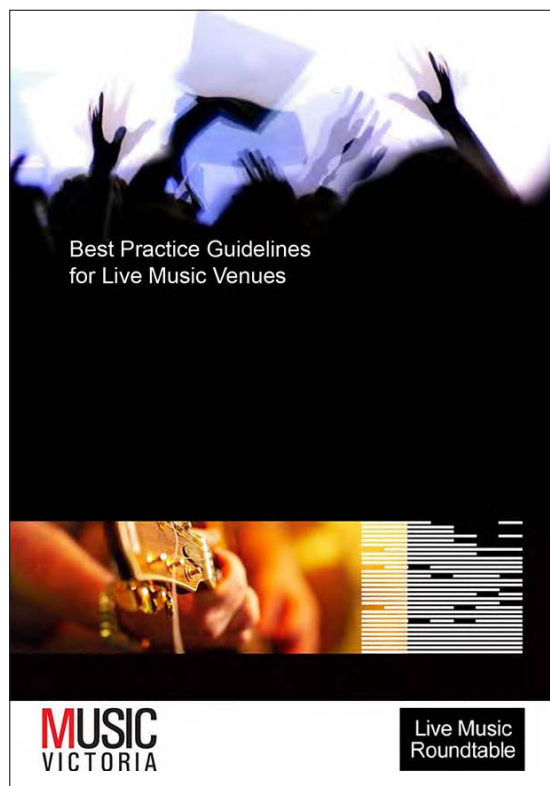
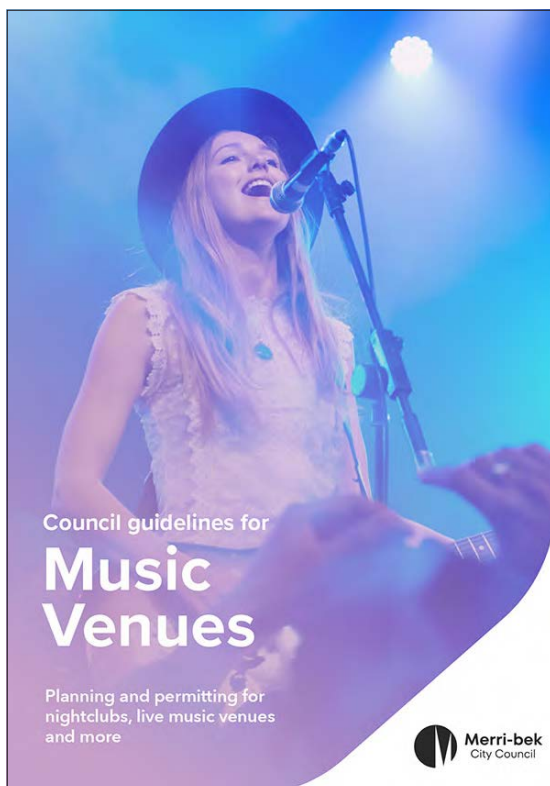


Image 4. Examples of live music guidelines prepared by Merri-bek City Council and Music Victoria.

Action 3. Undertake further economic and social research

A greater understanding of the economic and social value of live music within the area will help further support the establishment of a live music precinct. Further research could include consideration of:

- Economic benefits to the music industry
- Economic benefits to other businesses in the area
- Impact on the night time economy
- Economic benefits of regular live music venues compared to larger festivals and events
- Destination for local, interstate and international tourism
- Employment opportunities
- Increases in commercial land value and commercial leases
- Wider social value of live music including subjective measures of the role of live music in people's experiences and sense of connection to St Kilda
- Competitive advantages of the St Kilda Live Music Precinct compared to other live music locations across inner Melbourne
- Cost analysis for venues to control noise if funding was to be considered
- Cost burdens placed on residential developers if required to implement standardised sound insulation controls.

Regardless of the planning and regulatory outcomes, there is not a 'no complaint option' in respect to music noise. Being able to clearly identify the social and economic benefits of live music will be a crucial input into decision making that will need to balance support for live music while managing amenity impacts.

Conclusion

Council engaged Hodyl & Co, Echelon Planning and Enfield Acoustics to undertake a planning study for the live music precinct. This report analyses the planning and regulatory influences on live music activities and the establishment of a live music precinct. This work will support both the Live Music Precinct Policy that Council recently endorsed and a future amendment to the Port Phillip Planning Scheme to establish a live music precinct in St Kilda.

Issues and challenges

This report identifies several issues and challenges impacting live music more broadly and the establishment of a Live Music Precinct in St Kilda.

Defining live music

The City of Port Phillip's Live Music Action Plan considers live music to be:

A music performance being given by a person or people, using their voice and/or musical instruments.

The Plan is also inclusive of the wider music and live music industries, including nightclubs, which generally have much later operating hours compared with more traditional live music band rooms. This study discusses aspects of this distinction, which warrants further consideration in establishing the Live Music Precinct.

A complex environment

The planning and regulatory environment for live music and music noise is complex and intersects with several policy and regulatory areas, including planning, noise, liquor licensing, building, local laws and local policies. Navigating this environment can be challenging for various stakeholders including venue operators, developers and residents.

Extent of existing residential development

The proposed Live Music Precinct is within a diverse activity centre context and established area with a significant residential population. This includes developments with ground floor commercial uses

that host live music, or could do so in the future, with residential dwellings located on upper levels. Managing impacts of music noise on existing residents is challenging and may limit new venues from establishing or operating without significant noise mitigation under the current noise regulations.

Agent of change principle

The agent of change principle (Clause 53.06) forms a central part of the recent changes to planning policy. This principle assigns responsibility for noise attenuation measures to the 'agent of change' – a new use or development that is introduced into an existing environment. In the context of the St Kilda Live Music Precinct, this could apply to a new live music venue, an existing live music venue seeking to expand its operations, or a new residential development. It is important to note that this planning policy assesses a new development in relation to the existing context and is limited in how it assists potential locations where future live music venues may wish to establish.

Regulatory environment

While a live music venue may be complying with regulated noise limits and the agent of change principle (Clause 53.06), a venue may still be requested under the Environment Protection Authority's General Environmental Duty to further decrease amplification levels or install additional soundproofing if a risk is identified, such as via noise complaints.

Success factors for live music precincts

To inform the development of this report, research was undertaken to identify a list of key attributes and success factors for Live Music Precincts which were grouped under three categories:

1. Spatial Attributes
2. Venue Attributes
3. Governance attributes

An initial assessment of St Kilda shows several attributes are already in place or contributing towards the success factors for live music precincts.

Next steps

Preparation of a Planning Scheme Amendment

The development of this report has revealed the need for additional data to support the strategic justification for a Planning Scheme Amendment, as well as informing the preparation of a draft schedule to Clause 53.06 and a methodology for investigating and proposing potential live music precincts. The report therefore identifies a set of planning opportunities, rather than recommendations, along with actions for further work to be undertaken by Council (refer to Part 3).

The actions outline further information and analysis that is needed regarding existing live music entertainment venues and noise sensitive residential uses within the Live Music Precinct study area to establish a more definitive evidence base for recommending changes to the Port Phillip Planning Scheme.

Cultural Precinct Planning Overlay

It is also important to note that the Victorian Government has foreshadowed further changes to the Victorian Planning Provisions with a media release in November 2022 that included the following:

Our live music industry is recognised across the globe and we're putting measures in place that'll ensure it stays that way, with a cultural precinct planning overlay that protects the use of live music venues – ensuring the venues here today, are here to stay.

As no further information is currently available, this study has not provided any analysis or commentary regarding the overlay. Council should seek to engage with the Victorian Government to understand the purpose and timing of the cultural precinct planning overlay to determine how this can support the wider aims of the Live Music Precinct and the preparation of any Planning Scheme Amendment.

Streamlining approvals

The current planning and regulatory framework for live music is complex and involves several agencies. Streamlining the approvals process is challenging and would require significant advocacy to the Victorian Government by Council.

Supporting live music

This report identifies several initiatives that can be undertaken by Council to better support live music, including:

- Updating of internal systems to keep track of new live music entertainment venues, existing as-of-right venues and noise complaints.
- Preparing communications material to more clearly explain the complexity of the planning and regulatory environment for live music.
- Identifying additional economic and social research to support the preparation of a Planning Scheme Amendment.
- Provision of funding for sound attenuation to live music venues.
- Utilising the outcomes of this study to inform related future strategic work such as a Licensed Premises local policy.
- Engaging with the Victorian Government to establish opportunities to vary noise regulations as part of this process.

Proposed road map

A proposed road map to prioritise the opportunities and actions described in Part 3 is provided on the following page.

Prioritising the opportunities and actions

	SHORT TERM	MEDIUM TERM	POTENTIAL PLANNING SCHEME AMENDMENT	LONGER TERM	ONGOING	DESCRIPTION
OPPORTUNITY 1 Designate sub-precincts within the wider study area		● —→				Finalisation of the sub-precincts would be informed by further work undertaken through Action 1 and 2 to develop the evidence base to support a Planning Scheme Amendment.
OPPORTUNITY 2 Extend the agent of change principle		● —→				Propositions for extending the agent of change principle would be informed by further work undertaken through Action 1 and 2 to develop the evidence base to support a Planning Scheme Amendment.
OPPORTUNITY 3 Provide funding for sound attenuation to live music venues	●				●	Could be implemented in the short term pending the availability of funding and potentially expanded to be an ongoing program.
OPPORTUNITY 4 Continue to engage with stakeholders	● ———→				●	Initial engagement with Victorian Government to advocate for changes to noise regulations and better understand the proposed Cultural Precinct Planning Overlay. Wider ongoing engagement is undertaken to support the Live Music Precinct.
ACTION 1 Develop databases for live music venues and noise complaints	● ———→				●	Required to develop the evidence base to support a Planning Scheme Amendment and to track the location of live music venues, residential development and noise complaints.
ACTION 2 Develop clear communication material	●			●		Opportunity to provide clear communication material in the short term which would then be updated following any changes to the planning and regulatory environment.
ACTION 3 Undertake further economic and social research	● ———→					Required to develop the evidence base to support a Planning Scheme Amendment.

Figure 15. Proposed road map to prioritise opportunities and actions, with dashed arrows representing those related to a Planning Scheme Amendment.



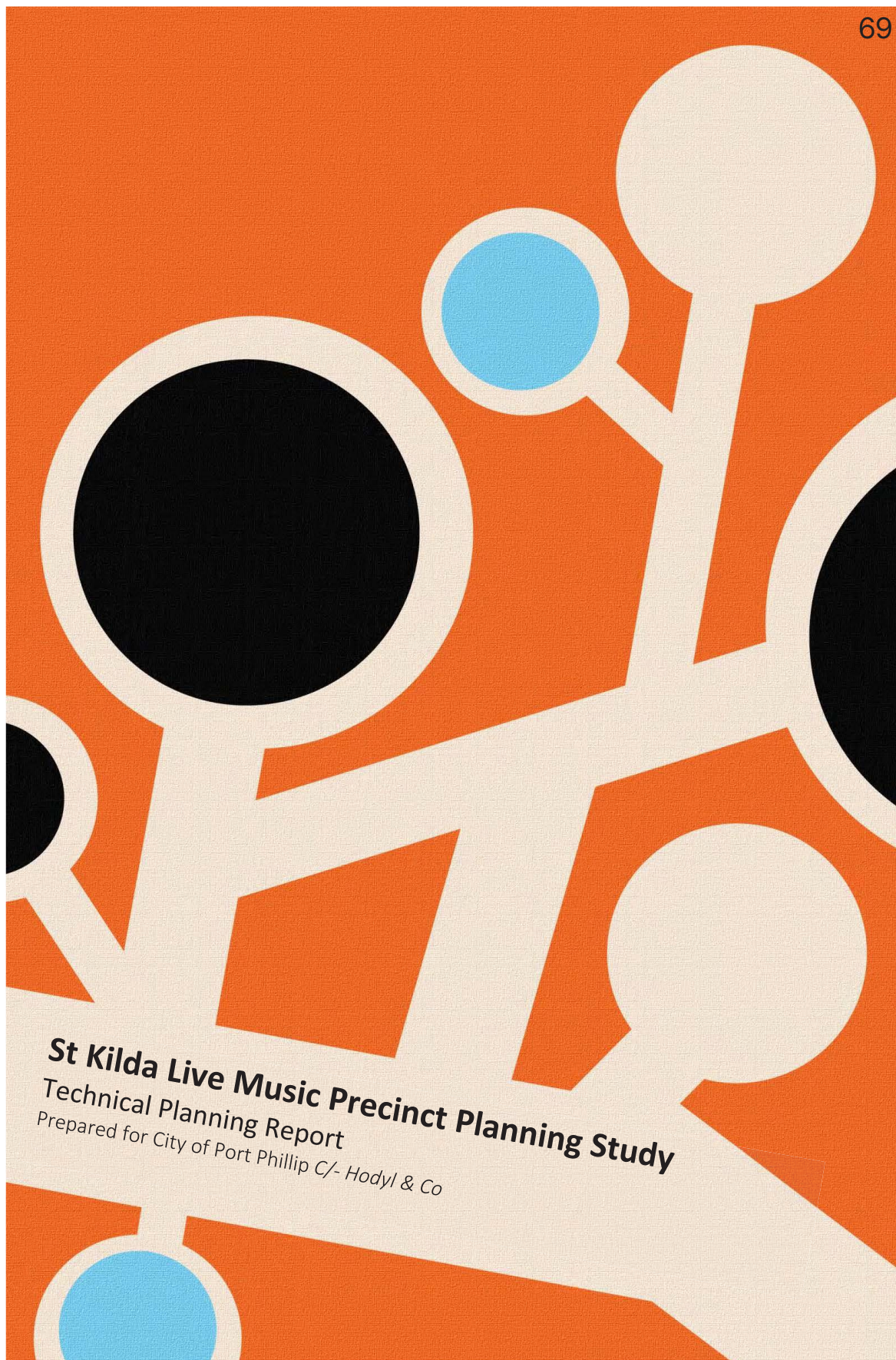
Image 5. Mark Seymour performing at the MEMO Music Hall for the St Kilda Live Music Precinct Launch.

Appendices

A. Planning Technical Report	68
B. Planning Proposition Report	138
C. Noise Analysis Technical Report	184
D. Stakeholder interviews	228
E. Council Policy Review	230
F. Liquor License Review	238
G. Assessment Framework: Live Music Precinct Success Factors	242



A. Planning Technical Report





Job number:	2687
Version:	V3.0
Date:	28 June 2023
Prepared by:	XW
Reviewed by:	MW

Table of Contents

1.0 Executive Summary	4
2.0 Project Background	11
2.1 Purpose of the Planning Study	11
2.2 Definitions	12
2.3 The St Kilda Live Music Precinct Study Area	13
3.0 Live Music Planning Policies and Regulations	18
3.1 The Planning & Environment Act 1987 (Vic)	19
3.2 The Port Phillip Planning Scheme	19
3.3 Planning Policy Context for live music in the St Kilda Live Music Precinct Study Area	20
3.3.1 State Planning Policy	20
3.3.2 Local Planning Policy for St Kilda	22
3.4 Land Use Zoning and Overlay Controls within the St Kilda Live Music Precinct Study Area	29
3.5 Clause 53.06 – Live Music Entertainment Venues	34
3.5.1 The schedule to Clause 53.06	36
3.6 Clause 52.27 – Licensed Premises	39
3.7 Live Music on Public Land	40
3.8 Clause 63 – Existing Use Rights	42
3.9 Clause 65 – Decision Guidelines	44
3.10 Planning Practice Notes	45
3.11 Planning Framework in Practice	49
3.11.1 Planning Permit Application Process	49
3.11.2 Identifying and defining a Live Music Entertainment Venue under Clause 53.06	50
3.11.3 Existing Uses and non-compliant noise levels	53
3.11.4 As-of-right use and development	54
3.11.5 Permit Conditions	55
3.11.6 Planning Enforcement	59
4.1 Analysis of Permit Triggers by Zone for Land Use	61
4.2 CoPP Standard Noise Permit Conditions	63
4.3 Planning Permit Assessment Process under Clause 53.06	67



1.0 Executive Summary

The City of Port Phillip have endorsed the *Live Music Action Plan 2021-2024 (LMAP)* which seeks to establish a live music precinct in Port Phillip (Outcome 1 and 2) to protect and enhance live music as a priority activity. To date, the City of Port Phillip's Live Music Precincts Working Group (LMPWG) have undertaken background research to define a preliminary boundary for the St Kilda Live Music Precinct (LMP) study area.

This report reviews the planning regulatory framework for establishing a live music precinct in the St Kilda Live Music Precinct preliminary study area by addressing the following questions:

- What is the current state-of-play in terms of planning policy outcomes sought for the St Kilda Live Music Precinct preliminary study area and what is permissible under the relevant zones and overlays?
- How does *Clause 53.06 – Live Music Entertainment Venues* of the Victorian Planning Provisions (VPP) (colloquially known as the "Agent of Change" clause) operate, and what mechanisms are available under Clause 53.06 to identify a live music precinct?
- How does the current planning regulatory framework operate in practice?
- What are the issues associated with the current planning regulatory framework and opportunities for improvement?

The methodology used to inform this report includes:

- Review of City of Port Phillip Live Music Precinct Working Group preliminary investigation done to date
- Review of the *Planning and Environment Act 1987* and the Port Phillip Planning Scheme
- Review of relevant Planning Practice Notes
- Review of relevant Victorian Civil and Administrative Tribunal (VCAT) decisions
- Stakeholder interviews

This report has focused on issues on a precinct-wide scale and does not include a review of existing planning permits associated with Live Music Entertainment Venues (LMEVs or 'music venues') and Noise Sensitive Residential Uses (NSRUs or 'residential uses'), their conditions, or site-specific contexts.

The proposed St Kilda Live Music Precinct and the Port Phillip Planning Scheme

The regulatory environment for live music and music noise in Victoria is complex and intersect with several regulatory areas, including planning, noise, liquor licensing, building, local laws, and others.

The planning regulatory framework in Victoria is established by the Planning & Environment Act 1987 ('the Act'). The Act establishes planning schemes which set out policies and provisions for land use and development. The Act also provides for the granting of planning permits as a statutory instrument for regulating land use and development, where one is triggered under the relevant provisions of the Planning Scheme.

The St Kilda Live Music Precinct preliminary study area covers several areas of policy significance under the Port Phillip Planning Scheme. These include:

- St Kilda Major Activity Centre (MAC), including Fitzroy Street and Acland Street retail strips.
- Inkerman Street / Grey Street Local Activity Centre (LAC);
- Greeves Street Mixed Activities Precinct (MAP); and
- St Kilda Foreshore area including the St Kilda Triangle Site.

Any planning permit application within the St Kilda Live Music Precinct preliminary study area must consider and balance relevant planning policy objectives. These include:

- Local and state-wide policy directions to increase intensity of residential and non-residential development in and around activity centres.
- State-wide policy directions to manage noise and the protection of community amenity and human health, as well as to encourage, create and protect opportunities to enjoy live music.

The main zones and overlays within the St Kilda Live Music Precinct preliminary study area generally includes:

- Commercial 1 Zone land in established retail strips and/or activity centre contexts where permanent live music venues are permitted to establish;
- Public Park and Recreation Zone (PPRZ) land containing public open spaces which are temporarily used for live music entertainment, including for music festivals and events;
- Residential zoned land a distance of 50 metres from the edges of areas which have existing, or future potential for the establishment of live music entertainment venue; and
- Existing live music venues including “non-conforming uses” in an unusual zoning context such as The Espy and National Theatre Melbourne.

Clause 53.06 outlines acoustic attenuation requirements for live music entertainment venue and noise sensitive residential use. These acoustic attenuation requirements are higher and different to that which is required for apartment developments, which consider noise sources from industry, rail, or road (as distinct from music noise generated by a live music entertainment venue).

Clause 53.06 assigns the responsibility for acoustic attenuation to the ‘agent of change’, which is a new use or development that is introduced into an existing environment.

The agent of change may be:

- a new or existing live music venue seeking to establish or expand, or
- a new residential development close to an existing live music venue.

The definition of a ‘live music venue’ in the LMAP is different to what the Victorian Planning Provisions (VPPs) define as a ‘live music entertainment venue’ under Clause 53.06.

Within the LMAP, ‘live music’ is defined as ‘*a music performance being given by a person or people, using their voice and/or musical instruments*’. This includes busking, concerts, pub rock, classical recitals, musical theatre, opera, hip-hop, and more.

A ‘live music venue’ as defined in the LMAP includes the wider music and live music industries within the ecosystem including music venues, nightclubs, orchestras, post-production facilities, radio stations, recording studios, sound design facilities, education bodies, music organisations, equipment hire, music entertainment, music publishing and music schools.

In Clause 53.06, a 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.*

The term ‘live music entertainment’ is not defined in Clause 53.06.



The schedule to Clause 53.06 can designate a 'live music precinct' which extends the 'agent of change' principle to an area beyond 50 metres of an existing live music entertainment venue. This can be done by including an area in clause 1.0 of the schedule to Clause 53.06.

Other planning mechanisms under Clause 53.06 includes the ability to:

- 'Turn off' the application of Clause 53.06 to areas where alternative attenuation requirements apply to noise sensitive residential uses, pursuant to clause 2.0 of the schedule to Clause 53.06; and
- Expand the definition of a live music entertainment venue to which Clause 53.06 applies, pursuant to clause 3.0 of the schedule to Clause 53.06.

Planning Issues and Opportunities

The following planning issues and opportunities have been identified in the analysis of the planning policy and planning regulatory framework which applies to live music venues and activity centres within St Kilda.

The need for clearer policy direction for live music entertainment venues in St Kilda:

State Planning Policy (*Clause 13.07-35*) supports the identification of areas where live music entertainment venues are encouraged as well as where there are high concentrations of licensed premises or clusters of live music venues. It further recognises that measures are required to ensure live music entertainment venues can co-exist with nearby noise sensitive residential uses.

However, existing local planning policies do not clearly recognise live music as a priority activity in the St Kilda activity centre context. The existing local policies broadly encourage the co-location of entertainment uses, retail and commercial uses, community care accommodation, backpacker's lodges, and residential dwellings in activity centres, but no particular emphasis or priority is given to live music entertainment venues over other land uses.

The existing local policies also do not:

- Provide clear guidance for where live music entertainment venues should locate within the St Kilda precinct.
- Distinguish live music entertainment venues from other entertainment venues.
- Include consideration of the "agent of change" principle in the assessment of planning permit applications within the St Kilda precinct.

There is therefore an opportunity to more overtly support the establishment of live music entertainment venues within the St Kilda precinct, identify areas where live music is encouraged, and where the agent of change principle should be applied, by:

- Amending existing local planning policies to give greater policy recognition to live music entertainment venues as a priority activity and consider the "agent of change" principle in place-based activity centre policies.
- Including the encouragement of 'live music' in the mixed-use policy directions for the Greeves Street MAP (where amenity impacts can be managed to preference residential amenity); and
- Providing clear acoustic requirements for future noise sensitive residential uses within and around the Inkerman Street/Grey Street LAC.

The need to identify potential live music venues early in the planning process.

There are several practical challenges with identifying and defining a live music entertainment venue and applying the Clause 53.06 clause. An analysis of relevant case law found that live music entertainment venues under Clause 53.06 were typically identified late in the planning application process (including upon

appeal to the Victorian Civil and Administrative Tribunal) and that in these situations, it was inappropriate or impractical to remedy the acoustic attenuation issues via permit conditions.

Notably in *QP99 Pty Ltd v Yarra CC [2018] VCAT 427*, the Tribunal considered that the Clifton Hill Brewpub was a live music venue, despite the variability and infrequency of live music acts over time. The Tribunal noted that Clause 52.43 (now Clause 53.06) did not specify a minimum number of live acts that must occur in a given period for an establishment to be classified as a live music venue¹. The implication of this is that many food and drink premises which could have included live music entertainment in the past or may not have hosted live music entertainment recently that could be overlooked in the early pre-planning stages of an application for a noise sensitive residential use.

Furthermore, there are other live music venues such as recording studios which are not recognised as a live music entertainment venue under Clause 53.06 – the long-term viability of business operations of these venues would also be impacted by the encroachment of noise sensitive residential uses.

There is an opportunity to better protect live music venues from future residential encroachment by requiring that the ‘agent of change’ principle applies, by:

- Expanding the definition of a live music entertainment venue to include significant cultural venues such as public halls, and lower-order music venues such as recording studios; and
- Identifying areas (i.e., a live music precinct) where live music entertainment is encouraged or where there is an existing cluster of licensed premises or clusters of live music venues, considering the future likelihood of live music entertainment to occur in hospitality venues.

The need for guidance on noise measurement and mitigation for noise sensitive residential uses located beyond 50 metres from live music entertainment venues:

Practical implementation issues also arise when determining how to measure noise and set appropriate acoustic attenuation measures for noise sensitive residential uses within a proposed Live Music Precinct.

Recent changes to State policy on live music (Amendment VC183) were intended to enable local planning schemes to recognise precincts where live music entertainment venues are encouraged. The schedule to Clause 53.06 is intended to allow the ‘Agent of Change principle’ to be extended across a defined precinct (i.e., beyond just 50 metres from any existing live music entertainment venue).

However, there are many practical considerations to address in deciding whether to recognise a live music entertainment precinct in the schedule to Clause 53.06. For example, what methods of acoustic measurement should be used to identify live music related noise transmission across a wider area (i.e., beyond any single live music venue within fixed distances from a proposed noise sensitive residential use).

Further, if the intention is to ‘future proof’ a precinct so that new live music entertainment venues could establish in future, what practical measures can be put in place to ensure that new noise sensitive residential uses are designed to provide a level of attenuation that maximises the chances of nearby sites being able to be used as live music entertainment venues.

If the intention is that areas be recognised as Live Music Precincts under the Planning Scheme so that they can cater for the establishment of new live music entertainment venues in the future, then this implies that all new residential uses within such precincts must be treated as an agent of change. Under this approach, guidance will be needed for determining some ‘assumed’ level of live music related noise within the precinct, and acceptable noise mitigations responses that new residential uses must incorporate.

¹ *QP99 Pty Ltd v Yarra CC [2018] VCAT 427* Paragraph 22-23



Protecting the potential for live music events on public land

Pursuant to Clause 62.03 and Clause 62.05, live music events and alfresco dining on public land do not require planning permission for use or development under the Port Phillip Planning Scheme, so Clause 53.06 does not apply to any public land used regularly for such events.

The St Kilda Live Music Precinct preliminary study area includes several large public open spaces that are or have the potential to hold music events and festivals. These spaces are not considered a live music entertainment venue under Clause 53.06 and do not benefit from protection from residential encroachment.

Therefore, an opportunity exists to include public open spaces frequently used for hosting live music events as live music entertainment venues within the Live Music Precinct area under Clause 3.0 of the schedule to Clause 53.06. This would mean that the requirement for the noise sensitive residential use to attenuate from any outdoor live music entertainment venue would still apply.

Creating consistency for existing live music entertainment venues.

There is a wide variation in the way that planning permits allow and/or regulate live music in venues across St Kilda. There are instances where permits contain conditions which do not allow the performance of live music at all, and that the conditions that are imposed on venues can vary significantly from premises to premises, without there being any clear rationale for the differences.

Other issues and opportunities arising from the regulatory framework in practice relates to planning permit conditions for live music entertainment venues and noise sensitive residential uses which are impractical, unenforceable, onerous, reference the incorrect noise provisions, or are duplicative of or contrary to other regulatory regimes such as liquor licencing and environment protection (noise).

Whilst some venues operate on the basis of existing use rights, the planning scheme provisions relating to existing use rights are highly limiting and not conducive to the intensification or growth of live music venues.

There may be opportunities to rezone some venues that currently operate on the basis of existing use rights under a residential zone within an activity centre context. For many other venues there may be opportunities to either amend their permits (by agreement) or issue new planning permits so that they provide more certainty to perform live music and more consistency with the conditions that are used to manage live music activities across venues within the precinct.

Not every live music entertainment venue will be subject to planning consent

Lastly, any formulation of policy response must consider that a live music entertainment venue can sometimes be established as-of-right in commercial areas, and live music entertainment is often considered an ancillary land use.

In such circumstances, these types of live music entertainment venue are not required to comply with the requirements of clause 53.06 and can therefore avoid any responsibility to attenuate music noise as the 'agent of change'.

It can also be difficult for the proponents to noise sensitive residential uses to identify the existence of such venues as they do not appear on any searches of planning permit registers, and it may not be straightforward to identify that such venues perform live music by other means of checking.

Whilst the ability of certain types of venues to establish within the precinct without the need for a planning permit is a good thing from the perspective of facilitating live music within the precinct, the potential for such venues to be overlooked in the assessment of nearby noise sensitive residential uses, and the



potential for 'as of right' live music entertainment venues to generate noise impacts are problems that need to be addressed.





Definitions and Abbreviations

CoPP	City of Port Phillip
PPPS	Port Phillip Planning Scheme
LMEV	Live Music Entertainment Venues as defined by Clause 53.06
LM	Live Music as defined within the Live Music Action Plan 2021-2024: <i>'a music performance being given by a person or people, using their voice and/or musical instruments'</i> .
LMV	Live Music Venues as defined within the Live Music Action Plan
VPP	Victorian Planning Provisions
NSRU	Noise Sensitive Residential Uses as defined by Clause 53.06
PPN	Planning Practice Note
LMP	Live Music Precinct as defined within the Live Music Action Plan 2021-2024: <i>"an area in which live music is recognised as a priority activity"</i> .
LMAP	Live Music Action Plan 2021-2024 prepared and endorsed by City of Port Phillip
DTP	Department of Transport and Planning
EPA	Environment Protection Authority (Vic)
VCAT	Victorian Civil and Administrative Tribunal
Act	Planning and Environment Act 1987 (Vic)

2.0 Project Background

2.1 Purpose of the Planning Study

Live music is an integral part of City of Port Phillip's cultural heritage and economic vibrancy. It is central to its community, identity and its past, present, and future.

The purpose of this Planning Study is to inform the development of a Live Music Precinct Policy and explore the merits of including St Kilda in a designated Live Music Precinct under the Port Phillip Planning Scheme.

The Live Music Action Plan 2021-2024 (**Action Plan**) endorsed by Council seeks to support the live music industry in Port Phillip. The Action Plan seeks to deliver Strategic Outcome 5 of the *Art & Soul Creative and Prosperous City Strategy*. Outcome 1 and 2 and its associated Goals and Actions of the LMAP form the basis of this Planning Study.

- **Outcome 1** – *A city that actively responds to the economic and social impact of COVID-19 on our local music industry.*
- Goal 1: *Live music as a tool for social and economic recovery for local businesses.*
- Actions: *Work with state government, Music Victoria, and consultants to explore the possibility of establishing a live music precinct in Port Phillip.*
- **Outcome 2** – *A City where live music flourishes, with a robust and passionate live music ecosystem and a solid foundation for a sustainable future where live music is able to continually grow.*
- Goal 3: *Encourage maximum live music opportunities via the creation of music precincts and develop a range of initiatives to 'broker' harmony between venues and local residents.*
- Actions: *Work with Music Victoria to identify potential 'live music precincts'.*



2.1.1 How to read this report

This report investigates the planning policies and regulations related to live music. It contains an overview of the following:

- The planning framework and policy context impacting live music.
- How the planning framework functions and performs in practice, including permit conditions, appeal, and enforcement processes.
- Issues and opportunities relating to how the Port Phillip Planning Scheme regulates the establishment of live music entertainment venues within the municipality.

2.2 Definitions

The Live Music Action Plan (Action Plan) defines a 'live music precinct' (LMP) as *"an area in which live music is recognised as a priority activity"*², resulting in potential changes to regulatory frameworks, governance processes and communications to support and protect live music activity.

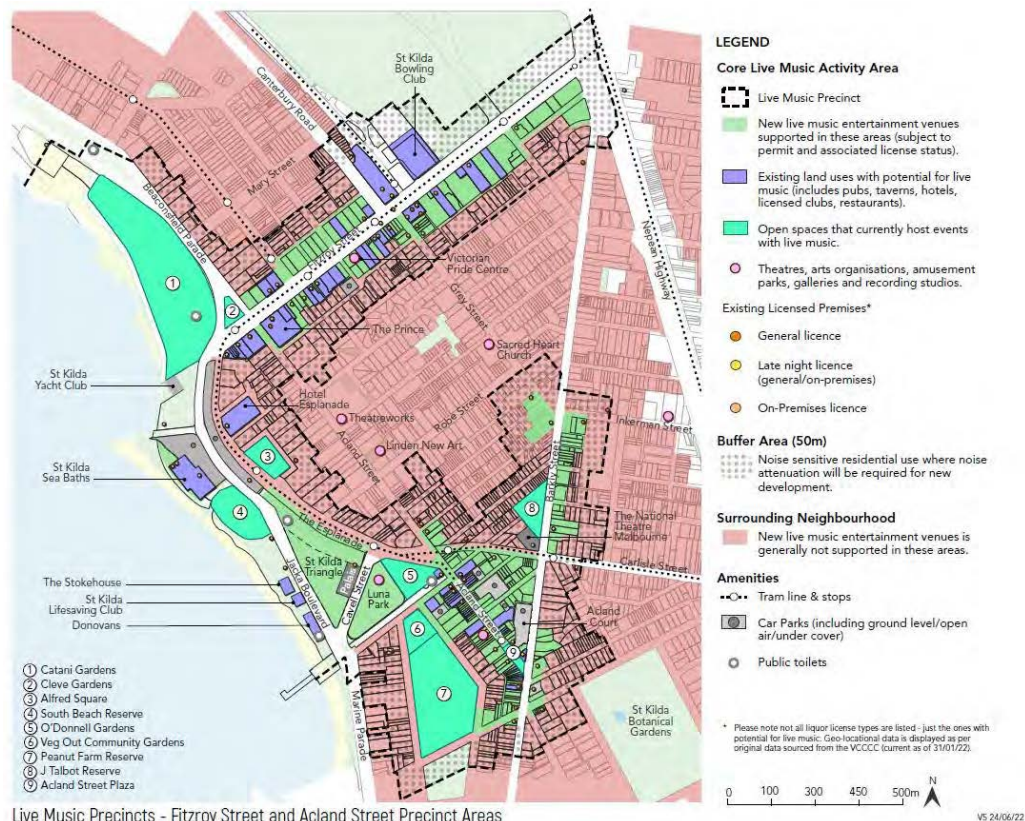
Within the Action Plan, 'live music' is defined as *'a music performance being given by a person or people, using their voice and/or musical instruments'*. This includes busking, concerts, pub rock, classical recitals, musical theatre, opera, hip-hop, and more. The Action Plan is also inclusive of the wider music and live music industries, make up of an ecosystem that supports the end-product of live music performance. As defined in the *2019 City of Port Phillip Creative Industries Mapping Project*, this is extended to include the following businesses, and the infrastructure, tools and patrons that support them:

- music venues
- nightclubs
- orchestras
- post-production facilities
- radio stations
- recording studios
- sound design facilities
- education bodies
- music organisations
- equipment hire
- music entertainment
- music publishing
- music schools.

² See LMAP, pg. 22, Outcome 2, Goal 3, Action 1

2.3 The St Kilda Live Music Precinct Study Area

The St Kilda Live Music Precinct preliminary study area identified by the by City of Port Phillip's Live Music Precincts Working Group (LMPWG) is contained in **Map 1** below.



The methodology used to inform the preliminary St Kilda Live Music Precinct study area was drawn upon extensive preliminary investigations undertaken by the LMPWG, which includes the following:

- Mapping existing or emerging live music industry clusters (including live music entertainment venues, supporting businesses and event spaces).
- Documenting current processes and pain points for live music approvals.
- Seeking information from key external stakeholders, including Music Victoria, Department of Transport and Planning (DTP), Environment Protection Authority (EPA) and other Councils who have investigated live music precincts.
- Developing preliminary criteria to guide where live music precincts could be located.



The spatial patterns of residential uses and music activities within the St Kilda Live Music Precinct preliminary study area boundary including existing and potential music venues were reviewed as part of preparing this report.

Existing music venues were mapped based on the following criteria:

- A licensed premise that is a land use that meet the definition under Clause 53.06, regardless of the frequency or regularity of live music performances³.
- Not restricted in planning permit conditions from playing live music or amplified music (which would include amplified live music)

Potential music venues were mapped based on the following criteria:

- Inclusion of that has the ability to accommodate potential live music venues (i.e., land uses that meet the definition under Clause 53.06), regardless of whether it is a licensed premise or not.
- Inclusion of venues which are currently restricted in planning permit conditions from playing live music or amplified music (which would include amplified live music) – on the basis that these permits could potentially be amended to permit live music to occur in the future.

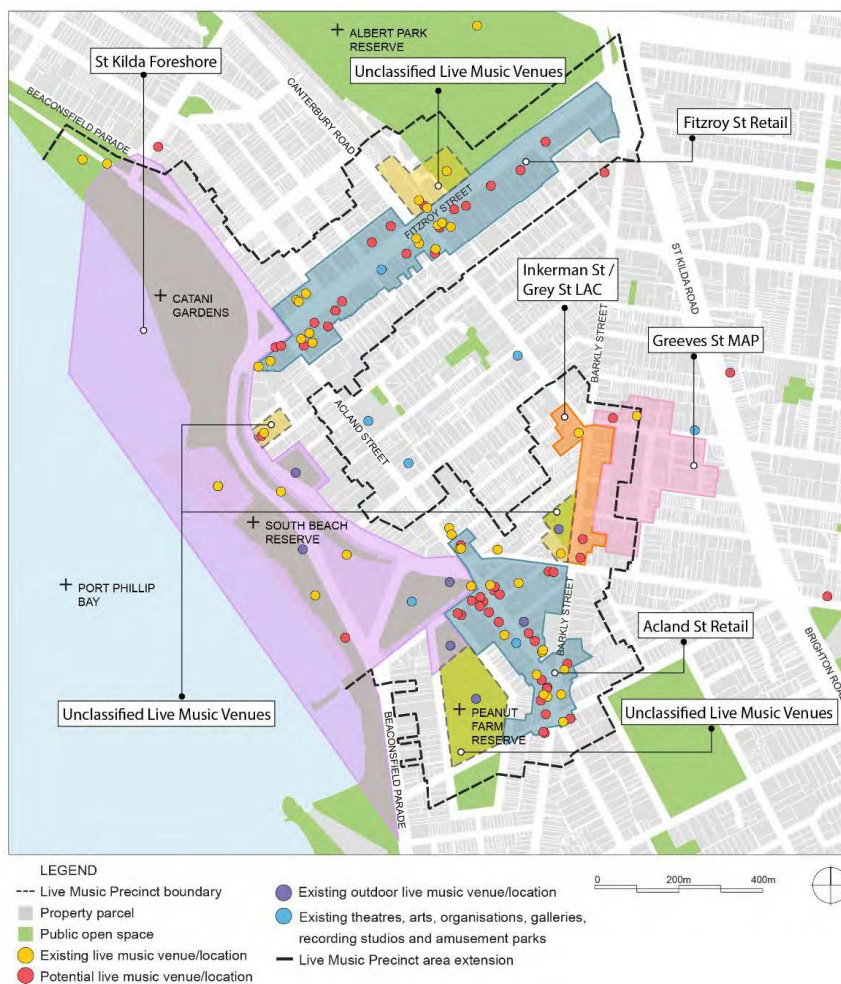
Other music venues currently not meeting the definition of a 'live music entertainment venue' but that could be included within an expanded definition under the schedule to Clause 53.06 are also mapped as follows:

- Existing music venues which are theatres, arts organisations, galleries and recording studios.
- Existing public open spaces which currently accommodate live music events and festivals or have the potential to do so and more regularly in future.

Preliminary findings and recommendations related to extensions of the St Kilda Live Music Precinct study area boundary are contained in the **Planning Propositions** paper.

The location of existing and potential music venues in context with the St Kilda Live Music Precinct preliminary study area boundary is shown in **Map 2** overleaf.

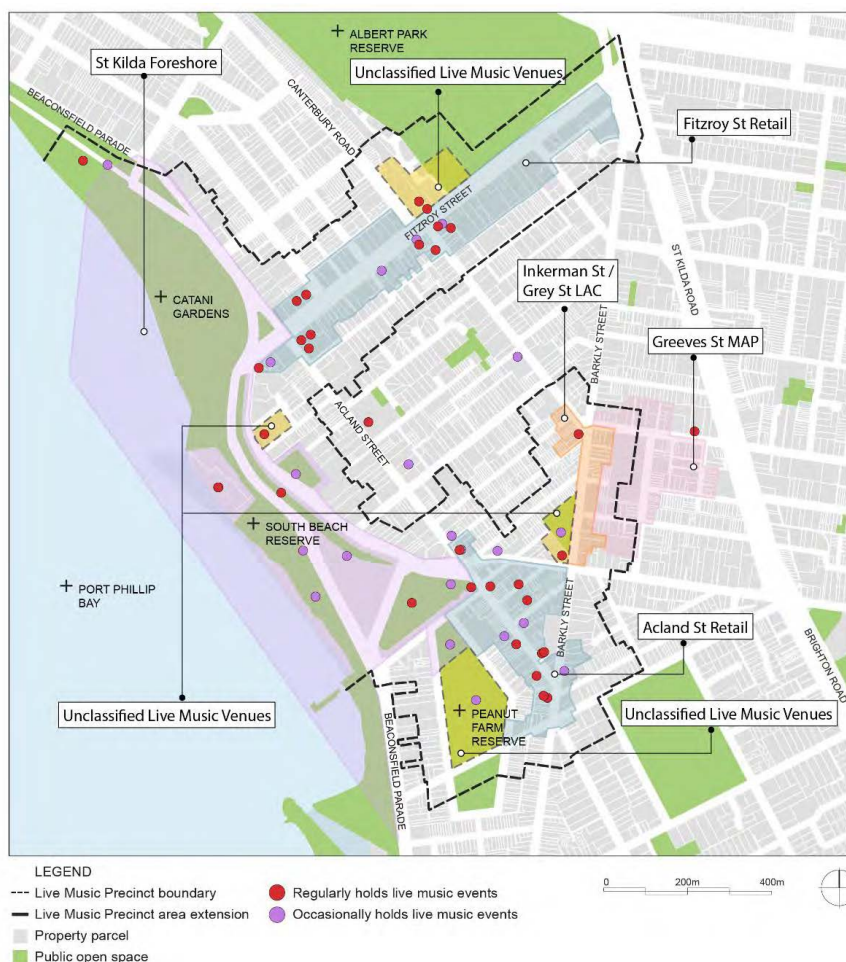
³ Refer to page 49, chapter 3.11.2 of this report.



Map 2: Identified Live Music Venues and type of music venue.

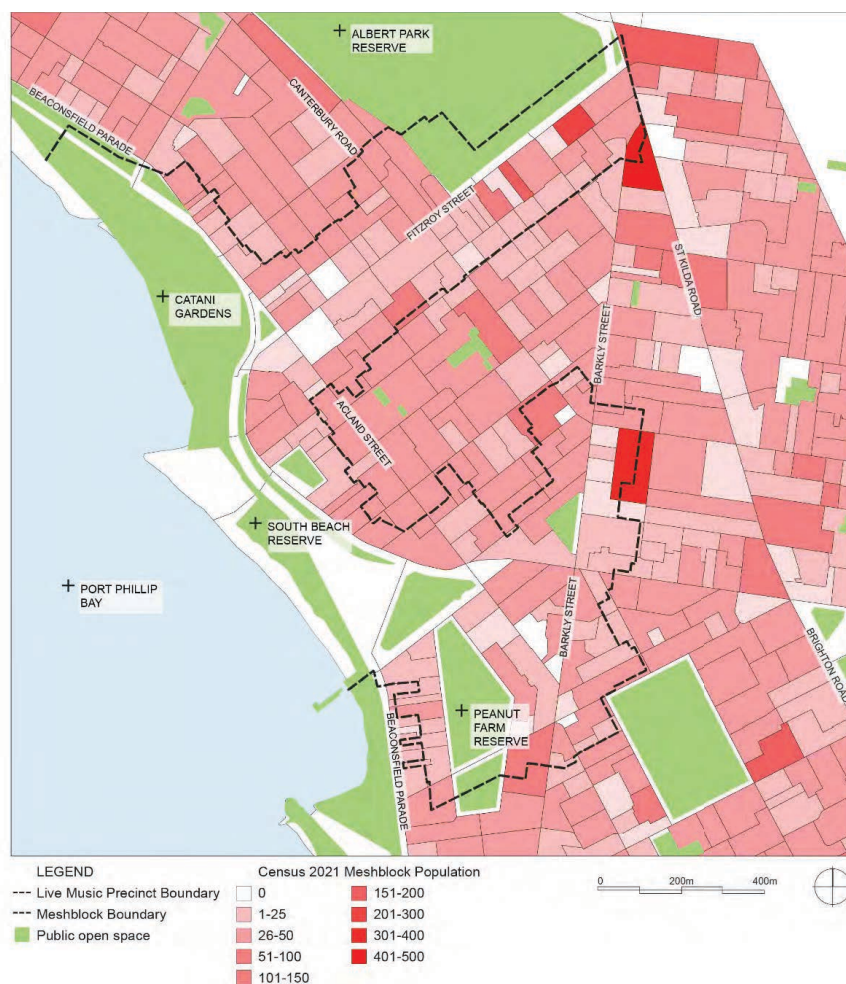


The frequency of live music performances of existing live music venues, including existing arts organisations, theatres, galleries, recording studios and amusement parks is shown in **Map 3** below.



Map 3: Frequency of live music activities within existing live music venues

The distribution of existing residential uses and intensity is included in **Map 4** below, based on the Australian Bureau of Statistics (ABS) Census Data:



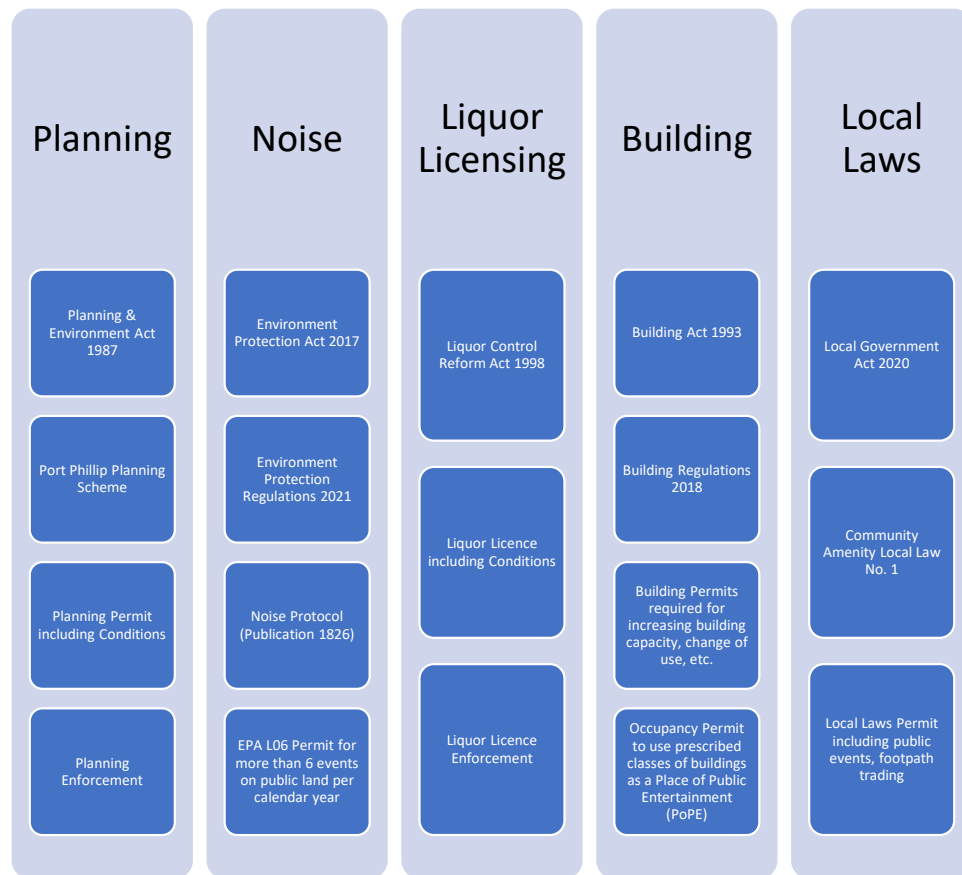


3.0 Live Music Planning Policies and Regulations

Regulatory Overview

The regulatory environment for live music and music noise in Victoria is complex and it intersects across several regulatory frameworks, including planning legislation.

It can be summarised by the following diagram:



3.1 The Planning & Environment Act 1987 (Vic)

The purpose of the Planning & Environment Act 1987 ('the Act') is to establish a framework for planning the use, development, and protection of land in Victoria.

The Act sets out the process and procedures for:

- Preparing and amending the Victorian Planning Provisions and planning schemes.
- Applications for planning permits under the relevant Planning Scheme,
- Settling disputes, including appeal to the Victorian Civil and Administrative Tribunal (VCAT),
- Enforcing compliance with planning schemes and permits.

The relevant objectives of planning in Victoria are set out in Section 4 of the Act as follows:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;*
- (e) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
- (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*
- (g) to balance the present and future interests of all Victorians.*

3.2 The Port Phillip Planning Scheme

The Port Phillip Planning Scheme is the starting point for planning decisions in the City of Port Phillip municipality, because it indicates:

- How particular kinds of land can be used or developed
- When a planning permit is required
- Which policies are relevant to Council's decision about a planning application.

Councils have two roles under the Act. First, as a planning authority, councils set a strategic policy framework for their municipalities through their planning schemes.

Second, as a responsible authority, Councils must administer and enforce the planning schemes for their municipalities. Councils assess proposals for land use and development against their planning schemes and make decisions on whether to grant, amend or deny permits for those proposals.



3.3 Planning Policy Context for live music in the St Kilda Live Music Precinct Study Area

The Planning Policy context for live music in the St Kilda Live Music Precinct comprises both state-wide policies and place-specific local policies under the Port Phillip Planning Scheme. An overview of these is set out below.

3.3.1 State Planning Policy

State Planning Policy contains directions which support live music, as well the concentration of residential and other activities within activity centres, and the management of land use compatibility.

In determining any application for the use and development in the St Kilda Live Music Precinct study area, Council is required to balance the following State Planning Policy directions:

- The encouragement, creation and protection of opportunities to enjoy live music.
- Activity centre policy outcomes with the expectation of greater concentrations of residential development;
- The need to manage noise and the protection of community amenity and human health; and
- The maintenance of St Kilda as a local tourism destination in its own right.

The abovementioned policies are set out below.

Clause 13.05-15 (Noise Management) seeks to assist the management of noise effects on sensitive land uses.

The relevant strategies recognise the need to 'ensure development is not prejudiced' and to 'minimise impact on human health' from noise through:

- Suitable building siting and design (including orientation and internal layout).
- Urban design, and
- Land use separation techniques

as appropriate to the land use functions and character of the area.

The policy guidelines and documents which are relevant to consider for Live Music are:

- *The noise requirements in accordance with the Environment Protection Regulations under the Environment Protection Act 2017.*
- *Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues (Publication 1826, EPA, May 2021)*
- *Environment Reference Standard (Gazette no. S 245, 26 May 2021)*

Clause 13.07-15 (Land use compatibility) seeks to protect community amenity, human health and safety while facilitating appropriate commercial or other uses with potential adverse off-site impacts.

Clause 13.07-35 (Live Music) seeks to "encourage, create and protect opportunities for the enjoyment of live music" along with the following 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.

The clause requires decision-makers to consider the “social, economic and cultural benefits” of:

- Retaining an existing live music venue.
- The development of new live music entertainment venues, and
- Clustering licensed premises and live music venues.

Clause 11.03-1S (Activity centres) seeks to “encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community”. Key strategies include:

- Encourage a diversity of housing types at higher densities in and around activity centres.
- Support the continued growth and diversification of activity centres to give communities access to a wide range of goods and services, provide local employment and support local economies.
- Improve the social, economic and environmental performance and amenity of activity centres.

Clause 15.01-1R (Urban Design – Metropolitan Melbourne) seeks to “create a distinctive and liveable city with quality design and amenity”. Key strategies include providing spaces and facilities that encourage and support the growth and development of Melbourne’s cultural precincts and creative industries.

Clause 17.04-1R (Tourism in Metropolitan Melbourne) seeks to “maintain and develop Metropolitan Melbourne as a desirable tourist destination”. Key strategies include maintaining Metropolitan Melbourne's position as a global, national and local destination in its own right and as a gateway to regional Victoria by supporting artistic and cultural life.



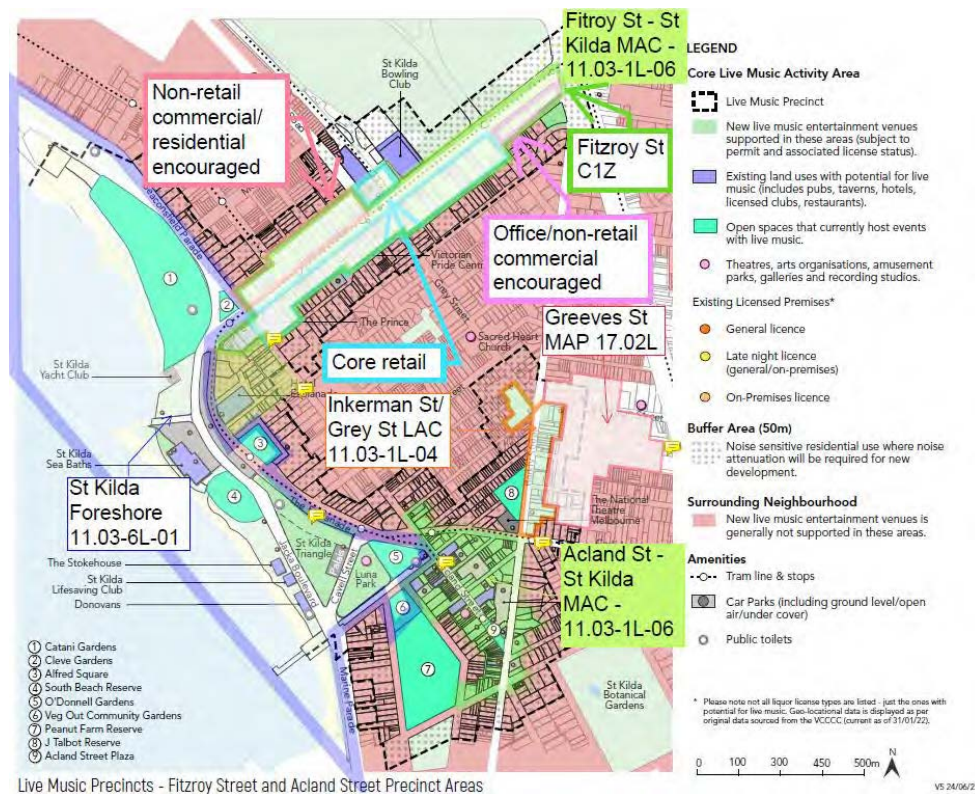
3.3.2 Local Planning Policy for St Kilda

The Port Phillip Planning Scheme contains a range of land use policies for different locations across the St Kilda Live Music Precinct preliminary study area, as follows:

- The St Kilda Major Activity Centre (MAC), which comprise Fitzroy Street and Acland Street retail strips.
- The Inkerman Street / Grey Street Local Activity Centre (LAC).
- The Greeves Street Mixed Activities Precinct (MAP).
- The St Kilda Foreshore area including the St Kilda Triangle Site

It also includes a range of policies relating to live music and entertainment, and the design of residential and non-residential development.

The place-based local policy aspirations and relevant area boundaries are overlaid on the St Kilda Live Music Precinct Study Area in **Map 2** below to articulate the place-based and activity centre areas:



Live Music Precincts - Fitzroy Street and Acland Street Precinct Areas

Map 2: Areas of policy significance overlaid on the St Kilda Live Music Precinct study area.

Each of these policies is set out below.

Municipal Planning Strategy for St Kilda

The St Kilda neighbourhood is recognised for its 'iconic' Acland Street and Fitzroy Street retail strips making up the St Kilda Major Activity Centre, the St Kilda foreshore, its eclectic mix of architectural buildings, and its famous tourism attractions such as Luna Park, the Palais Theatre and St Kilda Beach.

A 10 per cent population growth is forecast by 2031, predominately in the St Kilda Road South Precinct⁴ which is located east of the St Kilda Live Music Precinct study area boundary.

At Clause 02.03-1 Settlement, the following strategic directions are notable for St Kilda:

- *Maintaining the sense of community and cultural diversity that contribute to the unique character of St Kilda.*
- *Revitalising the St Kilda Foreshore (including the development of the 'Triangle' site).*
- *Retaining the unique heritage, character and generally low-rise built form of the established residential areas.*
- *Improving the liveability of the St Kilda Road South Precinct and strengthening its sense of place as it transitions to increased residential densities.*

Activity Centres

Clause 11.03-11-01 Activity Centres seeks to "maintain and strengthen a network of distinct, diverse, and viable activity centres that facilitate appropriate housing and economic growth" and to "support in-centre cultural tourism that reflects each individual centre whilst minimising adverse amenity impacts" with strategies that include, among others:

- Directing larger scale regional entertainment uses to the Bay Street Major Activity Centre, Port Melbourne and the St Kilda Major Activity Centre.
- Supporting smaller scale local entertainment uses in Major Activity Centres and Neighbourhood Activity Centres provided there are no adverse impacts on residential amenity.
- Supporting entertainment uses outside designated activity centres, provided there are no adverse amenity impacts on adjoining properties, including noise, hours of operation, traffic and car parking, and there is convenient access to public transport or other transport means (for example taxi ranks).

St Kilda Major Activity Centre

Clause 11.03-11-06 applies to land in the St Kilda Major Activity Centre as defined by the boundaries of the Commercial 1 Zone along Fitzroy and Acland Street, St Kilda.

- The local policy seeks to "reinforce the St Kilda Major Activity Centre as a significant retail, recreational, tourism, entertainment and leisure destination, whilst managing the cumulative impacts on local amenity and community safety".
- The key strategies for Fitzroy Street and Acland Street both include to 'Promote the tourism and entertainment role' and 'local retail servicing role' of the centres. For Fitzroy Street, the core retail area is 'along Fitzroy Street between Princes and Acland Streets'. For Acland Street, additionally it is sought to retain the 'distinctive village atmosphere'.

⁴ Clause 11.03-6L-03 seeks to transition this precinct to increased residential uses, and discourages larger-scale licensed premises, bars and nightclubs that may impact on the amenity of the surrounding area.



- A key strategy for residential development is to: *“Encourage non-retail commercial uses and residential development on the north-west side of Fitzroy Street, between Beaconsfield Parade and Canterbury Road.”*

Inkerman Street / Grey Street Local Activity Centre (LAC)

Clause 11.03-1L-04 applies to local and neighbourhood activity centres.

This clause aims to *“reinforce the role and character of local and neighbourhood centres to provide goods, services and employment opportunities that serve the needs of the surrounding community”*.

Relevantly, the Inkerman Street/Grey Street Local Activity Centre, St Kilda seeks to encourage a convenience retail goods and services role for the centre.

Greeves Street Mixed Activities Precinct (MAP)

Clause 17.02-1L Mixed use and office areas seeks to *“support the strategic role, function, viability and vibrancy of Port Phillip’s office and mixed-use areas”*.

The land zoned Mixed Use Zone adjacent to the Inkerman Street/Grey Street Local Activity Centre area is known as the ‘Greeves Street Mixed Activity Precinct’ on the map included in Clause 02.04-1 Economic Development.

The Greeves Street Mixed Activity Precinct has:

- a primary function for intensification of housing, and
- secondary functions of commercial/office and light industrial/warehouse uses.

Relevant strategies which apply to the Greeves Street Mixed Activity Precinct includes:

- Encouraging the redevelopment of the Greeves Street Mixed Activity Precinct to transition to predominantly residential uses; and
- Supporting office and compatible light industrial/warehouse uses in the Greeves Street Mixed Activity Precinct where they do not undermine or negatively impact on the primary residential function of this area.

St Kilda Foreshore area including the St Kilda Triangle Site

Clause 11.03-6L-01 St Kilda Foreshore applies to the St Kilda Foreshore area. This clause seeks, among others, to *“maintain and reinforce the unique cultural heritage and recreational importance of the St Kilda Foreshore area”*.

In relation to the St Kilda Triangle site, it seeks to *“encourage the integrated renewal of the site for a variety of public spaces, and entertainment and cultural venues”*.

Relevant strategies to achieve this includes to:

- *Support land use and development that contributes to the diverse character and reinforces the St Kilda Foreshore area as a key leisure and entertainment precinct.*
- *Ensure future use and development of the St Kilda Triangle site creates a hub focused on the arts, entertainment and leisure; and*
- *Minimise noise transference through high quality facility design, landscaping and buffer zones.*

General policy related to Live Music, Culture and Entertainment

The Planning Scheme contains local policy directives related to music, culture and entertainment as follows:

- At Clause 02.02 Vision, Port Phillip will be a city *“that is creative and prosperous with a dynamic economy that connects and grows business as well as bringing arts, culture and creative expression to everyday life.”*
- At Clause 02.03-1 Settlement, the network of activity centres including St Kilda Major Activity Centre (Fitzroy/Acland Street) and Inkerman/Grey Street Local Activity Centre is recognised for its role in performing a range of *“retail, commercial, entertainment and housing functions”* as well as *‘supporting and hosting visitation, including local and regional entertainment’*.

Local policy supports reinforcing a diverse network of economically viable activity centres across Port Phillip by promoting development that:

- Is of a scale appropriate to the role and capacity of the centre.
- Supports the distinct identity and social and cultural role of each centre.
- Provides for residential development at a scale appropriate to the role, capacity and economic function of each centre.
- At Clause 02.03-6 Economic Development, the need to balance the *‘social, economic and cultural benefits of tourism and entertainment uses (particularly live music venues, licensed premises and gaming venues) with minimising social harm and protecting residential amenity’* is recognised as a key challenge.

Local policy supports:

- Supporting an environment in which arts and creative industries can flourish.
- Supporting a local tourism industry and entertainment precincts that respect safety, amenity and the natural environment.
- Designing and locating sensitive land uses (such as residential uses) to minimise the potential conflict with existing and future employment uses.
- At Clause 02.03-9 Open Space, the Port Phillip Bay foreshore is recognised to host a wide range of entertainment, sport and recreational activities.
- At Clause 11.03-11-01 Activity centres, policy directives related to ‘entertainment uses’ are included as follows:
 - Direct larger scale regional entertainment uses to, among others, the St Kilda Major Activity Centre.
 - Support smaller scale local entertainment uses in Major Activity Centres and Neighbourhood Activity Centres provided there are no adverse impacts on residential amenity.
 - Allow bar uses in association with existing ground floor restaurants and cafes.
 - Support entertainment uses located outside designated activity centres, provided:
 - *There are no adverse amenity impacts on adjoining properties, including noise, hours or operation, traffic and car parking.*



- *There is convenient access to public transport or other transport means (for example taxi ranks).*
- At Clause 13.07-1L-04 Tourism, entertainment uses and licensed premises, key strategies related to minimising possible adverse impacts from entertainment uses includes:
 - Site, design and manage tourism uses, entertainment uses and licensed premises to minimise their impacts on residential safety and amenity, including impacts from increased late night patronage, parking congestion and anti-social patron behaviour.
 - Avoid the concentration of late night tourism uses, entertainment uses and licensed premises where there are significant adverse cumulative impacts on the amenity of the surrounding area.

The relevant considerations include the extent to which significant adverse cumulative impacts for entertainment uses operating after 10pm are prevented and addressed.

Design of Residential and Non-Residential Development

Clause 13.07-1L-03 Interfaces and Amenity applies to:

- Non-residential use and development,
- Residential use and development on land:
 - In a Mixed Use Zone, Commercial 1 Zone or Industrial 1 Zone,
 - In a Residential Zone within 30 metres of a Commercial 1 Zone,
 - On land adjacent to an industrial area, main road or rail line.

This policy seeks to, among others, *“manage amenity conflicts between commercial, industrial and residential activities while maintaining the viability of commercial or industrial activities”*.

Relevant strategies for non-residential use and development include:

- Encouraging non-residential uses in residential zones to locate in buildings with a historic non-residential use, close to public transport, on corner sites that have direct access to a major road, or on sites adjacent to the boundary of a non-residential zone.
- Addressing possible impacts on residential amenity from established and future non-residential uses through appropriate design and management measures that provide acoustic protection to adjoining residential properties, and minimise noise transmission within the building, including from machinery and ventilation systems, between floors or separate units and to adjoining residential properties.
- Establishing the scale of proposed uses, including total floor area, number of operators, hours of operation, practitioners, staff, seats, patrons and type of any liquor licence to be sought.

Relevant guidelines for non-residential use and development include:

- Designing non-residential development adjacent to existing residential properties to incorporate effective acoustic insulation in the building.

Relevant strategies for residential development include to *“ensure new residential development incorporates measures to protect residents from unreasonable noise, fumes, vibration, light spillage, waste management and other likely disturbances, including from nearby business or industrial operations”*.

Relevant guidelines for residential development include designing residential development adjacent to existing commercial or industrial uses to:

- Orient windows and ventilation systems away from existing and potential noise sources.
- Locate noise-sensitive rooms (in particular, bedrooms) and private open space away from existing and potential noise sources.
- Incorporate other measures such as acoustic fencing, landscaping and setbacks, where appropriate.



Issues and Opportunities for Planning Policies

Issue	Opportunity
<p>'Entertainment venues' are generally encouraged within Activity Centres, however, existing local planning policies do not sufficiently differentiate live music entertainment venues from other types of entertainment venues.</p> <p>Local policy also does not provide clear guidance on the preferred locations for live music entertainment venues versus other types of entertainment venues, noting that venues including live music entertainment can be cultural venues (such as public halls) and non-entertainment music venues such as recording studios and rehearsal studios.</p>	<p>There is potential to establish a 'live music entertainment venue' precinct within the planning scheme, although the practical effect and implications of using this tool require further careful analysis.</p> <p>There is potential to differentiate live music entertainment venues more clearly from other types of entertainment venues via local policy and identify preferred locations and/or operating conditions for each.</p> <p>There is potential to provide clearer directions for the preferred location of different types of live-music-related activities (such as recording studios and rehearsal studios).</p>
<p>Existing local planning policies related to the St Kilda MAC and Inkerman Street/Grey Street LAC and the Greeves Street MAP do not include consideration of the "agent of change" principle.</p> <p>These policies require all residential and non-residential applications to "consider" noise and amenity issues in a general sense manner that is not specific to live music entertainment venues.</p>	<p>Existing place-based and activity centre local planning policies could give greater policy recognition to live music as a priority activity, through:</p> <ul style="list-style-type: none"> • Explicit recognition of the 'agent of change' principle within the St Kilda Live Music Precinct area; and • Setting clearer noise attenuation expectations for new residential development within activity centres that recognise the potential for existing and future live music venues.

3.4 Land Use Zoning and Overlay Controls within the St Kilda Live Music Precinct Study Area

The St Kilda Live Music Precinct Study Area includes land within a variety of land use zones. It includes land that either currently is used for the performance of live music or has the potential to be in future, as well as land that is currently used for residential purposes (and which has the potential to be used more intensively for such purposes).

Specifically, the St Kilda Live Music Precinct study area includes the following land uses and areas:

- Land with zoning (such as Commercial 1 Zone) and existing land uses with potential for live music (such as pubs, taverns, hotels, licensed clubs, restaurants)
- Existing licensed premises (General Licence, Late Night Liquor and On-Premises Licence categories) which either are, or have the potential to be live music entertainment venues.
- Existing premises that have planning permits of live music entertainment.

The St Kilda Live Music Precinct Study Area can be characterised as including the following 5 sub-areas:

- **Area 1:** The St Kilda Major Activity Centre⁵ comprises:
 - Area 1A: Commercial 1 Zoned land in the Fitzroy Street retail strip
 - Area 1B: Commercial 1 Zoned land in the Acland Street retail strip including the Acland Court (zoned Comprehensive Development Zone Schedule 3) and public car parks zoned Public Use Zone Schedule 6 (PUZ6)
- **Area 2:** Commercial 1 Zoned land in the Inkerman Street / Grey Street Local Activity Centre (LAC);
- **Area 3:** The St Kilda Foreshore area including Public Open Spaces (POS)⁶ which currently host events with live music, and special entertainment uses such as:
 - POS #1 Catani Gardens
 - POS #2 Cleve Gardens
 - POS #3 Alfred Square
 - POS #4 South Beach Reserve
 - POS #5 O'Donnell Gardens
 - POS #6 Veg Out Community Gardens
 - St Kilda Yacht Club – zoned Public Park and Recreation Zone (PPRZ).
 - St Kilda Sea Baths – zoned Special Use Zone schedule 1 (SUZ1)
 - St Kilda Triangle/Palais Theatre – zoned Special Use Zone schedule 3 (SUZ3)
 - Luna Park – zoned Special Use Zone schedule 2 (SUZ2)
- **Area 4:** Unclassified live music venues and POS outside of but close to Areas 1-3 including:

⁵ Clause 11.03-1L-06 St Kilda Major Activity Centre local policy applies to land defined by the boundaries of the Commercial 1 Zone within Fitzroy Street and Acland Streets, St Kilda.

⁶ Defined by the Map to Clause 11.03-6L-01 (St Kilda Foreshore Local Policy) and zoned Public Park and Recreation Zone (PPRZ).



- St Kilda Station redevelopment (retail and residential mixed use) zoned Comprehensive Development Zone schedule 2 (CDZ2)
- National Theatre Melbourne zoned General Residential Zone Schedule 1 (GRZ1)
- St Kilda Bowling Club zoned Public Park and Recreation Zone (PPRZ)
- The “Espy” Esplanade Hotel zoned General Residential Zone Schedule 3 (GRZ3) adjacent to The Esplanade.
- POS #7 Peanut Farm Reserve
- POS #8 J Talbot Reserve
- **Area 5:** Surrounding neighbourhood of residentially zoned land (to land parcel cadastre boundaries) within 50 metres of Area 1-4, including:
 - Parts of the Greeves Street MAP zoned Mixed Use Zone (MUZ).
 - Land zoned Neighbourhood Residential Zone Schedule 1, 5, 6 and General Residential Zone Schedule 1, 2.

Area 1-4 are those areas where either:

- Existing land uses with potential for live music (including pubs, taverns, hotels, licensed clubs and restaurants) currently operate (as at 31 January 2022); and
- It would generally be expected that new live music entertainment venues would be supported due to the zoning of the land and the policy support for such activities (subject to appropriate permit conditions and associated liquor licence status).

Area 5 are those areas where new live music entertainment venues would generally not be supported due to it being land zoned for residential purposes.

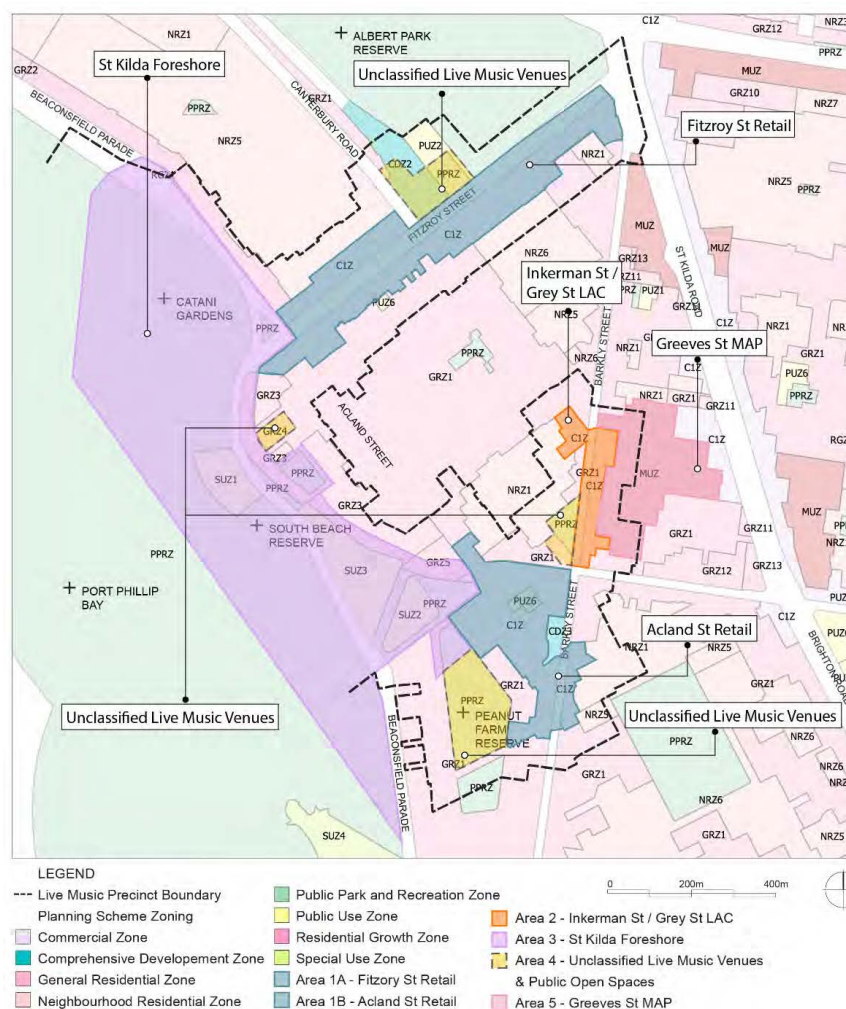
The St Kilda Live Music Precinct preliminary study area map also includes non-traditional Live Music Entertainment Venues (theatres, arts organisations, galleries and recording studios) which have obtained planning permission and are located outside of the St Kilda Live Music Precinct preliminary study area boundary.

These include the following venues:

Venue	Location/Address	Type of land use
Sacred Heart Church	83 Grey Street, St Kilda	Place of Worship
Theatreworks	14 Acland Street, St Leonards Ave, St Kilda VIC 3182	Theatre
Linden New Arts	26 Acland Street, St Kilda	Gallery
Allan Eaton Studios	80 Inkerman Street, St Kilda VIC 3182	Recording studio

A summary of the permit triggers for an application for a noise sensitive residential use or a live music entertainment venue⁷ is included in Appendix 6.1.

⁷ A live music entertainment venue is not a separate land use definition pursuant to Clause 73.03 Land Use Terms, but is taken to mean (pursuant to Clause 53.06-2), a food and drink premises, nightclub, function centre or residential hotel that includes live music entertainment, rehearsal studio (not defined in Clause 73.03 Land Use Terms), or any other venue used for the performance of music and specified in clause 3.0 of the schedule to Clause 53.06, subject to any specified condition or limitation.



Map 3: Zoning.

Issues and Opportunities – Sub-precincts

Issue	Opportunity
The St Kilda Live Music Precinct preliminary study area includes a series of sub-precincts, each of which has different land use characteristics that influence their relative suitability for different types of live music activities.	Local policy could be used to identify preferred sub-precincts for different types of live music activities (including live music entertainment venues).
The St Kilda Live Music Precinct preliminary study area includes part of the Greeves Street Mixed Activity Precinct (MAP) which has a primary	The Greeves Street MAP could include encouragement for music activities with lower residential amenity impact and provide clear



function for intensification of housing, and secondary functions of commercial/office and light industrial/warehouse uses. The St Kilda Live Music Precinct preliminary study area map nominates part of the Greeves Street MAP as “ <i>areas where live music entertainment venue is discouraged to establish</i> ”, however, under the Mixed Use Zone a live music entertainment venue can be permitted to establish (subject to permit).	acoustic requirements for future noise sensitive residential uses and developments within and around the Inkerman Street/Grey Street LAC.
Live music activities and live music entertainment venues will need to take account of its potential impact on sensitive uses, such as residential development which exists and are permitted across most of the preliminary study area (subject to a planning permit).	

Planning Overlays

The planning overlays that apply to land within St Kilda do not regulate land use (including for live music entertainment venue and noise sensitive residential use) but rather, apply additional built form controls and controls to land.

The St Kilda Live Music Precinct preliminary study area also includes areas covered by the following overlays:

- Heritage Overlay (HO) – various schedules, the majority of which is Schedule 5 (St Kilda Hill).
- Design and Development Overlay (DDO) – Schedule 6 (St Kilda area including Fitzroy Street, The Esplanade and Acland Street)
- Design and Development Overlay (DDO) – Schedule 10 (Port Phillip Coastal Area)
- Development Plan Overlay (DPO) – Schedule 1 (St Kilda Triangle site)
- Special Building Overlay (SBO)
- Specific Controls Overlay (SCO) – various schedules
- Environmental Audit Overlay (EAO)

Relevantly, noise considerations are included in the Development Plan Overlay – Schedule 1 (St Kilda Triangle site) as a decision guideline only.

Planning overlays deal with the design of new development, and there is potential scope to use overlays to introduce noise controls relating to live music (either at live music venues or at noise sensitive receptors) but it would be necessary to strategically justify the use of such controls, based on evidence that:

- There is a need for such a control (i.e. it can be demonstrated that the current regulatory requirements are not effective in achieving the relevant policy outcome).
- The controls are likely to achieve its intended outcome (e.g. to reasonably contain live music noise within a live music venue, or attenuate such noise from an apartment).
- The control can be practically implemented, and at reasonable cost.

Some of the abovementioned DDOs provide for intensification of residential uses within parts of the study area, and therefore they signal where the greatest areas of change are likely to occur.

For buildings located within the Heritage Overlay, the requirements relating to the preservation of heritage fabric will increase the complexity and cost associated with introducing noise attenuation features.



3.5 Clause 53.06 – Live Music Entertainment Venues

Clause 53.06 of the Victorian Planning Provisions (VPPs) outlines the general requirements and performance standards applying to the use and development of land for Live Music Entertainment Venues (live music entertainment venue) and Noise Sensitive Residential Uses (noise sensitive residential use).

The purposes of this clause are:

- *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.*

The schedule to Clause 53.06 also allows customisation of local content through clauses 1.0, 2.0 and 3.0. The operation of the clause is addressed further in this chapter.

Preliminary recommendations for the use of the schedule are discussed in the Planning Proposition paper.

What is the Agent of Change principle?

Clause 53.06 assigns responsibility for noise attenuation measures to the 'agent of change'. The 'agent of change' is a new use or development that is introduced into an existing environment – this may be a new or existing live music venue seeking to establish or expand, or a new residential development close to an existing live music venue.

Where does Clause 53.06 apply?

Pursuant to Clause 53.06-1, 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.

That is, the requirements of Clause 53.06 do not apply retrospectively to existing live music entertainment venue but will apply to live music entertainment venue seeking to expand which require a planning permit under the zone to either use or develop land associated with a live music entertainment venue land use.

What is a Live Music Entertainment Venue?

A live music entertainment venue is not separately defined as a land use term pursuant to Clause 73.03 – Land Use Terms. Live music entertainment venues are a sub-set of defined land uses which have the opportunity for frequent and permanent occurrences of live music entertainment.

Under this clause, a live music entertainment venue is defined to mean:

- a food and drink premises, nightclub, function centre or residential hotel that includes live music entertainment; and
- a rehearsal studio;

A live music entertainment venue can also be "any other venue used for the performance of music, subject to any specified condition or limitation, if specified in clause 3.0 of the schedule to this clause".

What is a Noise Sensitive Residential Use?

A noise sensitive residential use is not separately defined as a land use term pursuant to Clause 73.03 – Land Use Terms. noise sensitive residential use is a sub-set of defined accommodation land uses which warrant protection of residential amenity and particularly with regards to noise impact.

Under this clause, a noise sensitive residential use noise sensitive residential use is defined to mean:

- a community care accommodation,
- dependent person's unit,
- dwelling,
- residential aged care facility,
- residential village,
- retirement village or
- rooming house.

Assessment against Clause 53.06

Pursuant to Clause 53.06-3, a live music entertainment venue and noise sensitive residential use must meet the following requirements:

- 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.
- Any new noise sensitive residential use must be designed and constructed to include acoustic attenuation measures that will reduce noise levels from:
 - Indoor live music entertainment venue to below the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826, Environment Protection Authority, November 2020).
 - Outdoor live music entertainment venue to below 45dB(A), assessed as an Leq 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 (consistent with EPA Publication 1826).
- 3

Pursuant to Clause 53.06-5 (Decision Guidelines), the responsible authority must consider, in addition to the decision guidelines in Clause 65, 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.



Scope of Clause 53.06

This clause does not apply to extensions of an existing dwelling, or to noise sensitive residential uses in an area designated under clause 2.0 of the schedule to Clause 53.06.

Based on stakeholder interviews with the Department of Transport and Planning (DTP) it is understood that 'extensions of an existing dwelling' refers to existing dwellings (including apartments) which existed at the time of the introduction of the then-Clause 52.43 (via Amendment VC120) and what is now included under Clause 53.06 (and has been amended via Amendment VC183).

3.5.1 The schedule to Clause 53.06

The schedule to Clause 53.06 includes three clauses with different purposes as follows:

- Clause 1.0 defines areas to which Clause 53.06 does apply, i.e., a Live Music Precinct.
- Clause 2.0 defines areas to which Clause 53.06 does not apply, i.e., where alternative noise standards apply.
- Clause 3.0 allows specific venues, addresses and conditions or limitations to be listed, beyond what is defined to mean a live music entertainment venue within Clause 53.06.

Application of Clause 53.06 to a Live Music Precinct

Clause 1.0 of the schedule to this clause can be used to specify a Live Music Precinct area wherein noise sensitive residential uses must meet the requirements of Clause 53.06-3 regardless of whether the site is within 50 metres of an existing live music entertainment venue or not. This seeks to extend the 'agent of change' principle to an area, rather than existing live music entertainment venues within 50 metres.

Recognise areas where alternative noise control requirements apply to noise sensitive residential uses

Clause 2.0 of the schedule to this clause can also be used to designate areas where a noise sensitive residential use is not required to comply with the requirements of Clause 53.06. PPN81 notes this may be necessary where alternative noise control requirements are already in place for a noise sensitive residential use through the planning scheme or Part 5.3, Division 4 of the *Environment Protection Regulations 2021* which regulates unreasonable and aggravated noise from entertainment venues and outdoor entertainment events.

The *Environment Protection Regulations 2021* acknowledges and considers the operation of Clause 53.06 and the agent of change. Relevantly, Section 122 of the *Environment Protection Regulations 2021* states the following:

122 Music noise from live music entertainment venues

Despite anything to the contrary in this Division, music noise emitted from a live music entertainment venue is not unreasonable noise or aggravated noise if –

- (a) the live music entertainment venue complies with the Live music entertainment venues provisions set out in the VPPs; and*
- (b) the noise limit that applies to that venue.*

Note: Among other things, the Live music and entertainment noise provisions set out in the VPPs ensure the primary responsibility for noise attenuation rests with the agent of change.

Expand definition of a 'live music entertainment venue' to which Clause 53.06 applies

Clause 3.0 of the schedule to Clause 53.06 allows other venues used for the performance of music, such as public halls, theatres, arts organisations, amusement parks, galleries and recording studios to be included in the definition of a live music entertainment venue, subject to any specified condition or limitation.

If included, the venues listed in clause 3.0 of the schedule must meet the requirements of Clause 53.06-3 (Requirements to be met), which require that 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.

Issues and Opportunities for using the Schedule to Clause 53.06

Clause	Issue	Opportunity
1.0	Determining the appropriate acoustic attenuation measures from a design and construction perspective is based on noise surveys to measure existing baseline noise levels from indoor and outdoor live music entertainment venue within a certain proximity. In practice, Clause 53.06-3 does not specify how a noise sensitive residential use must be designed and constructed to include acoustic attenuation measures that will reduce noise levels from indoor and outdoor live music entertainment venue <u>beyond</u> any existing live music entertainment venue within 50 metres.	If the intention is that areas be recognised as live music entertainment precincts under the planning scheme so that they can cater for the establishment of new live music entertainment venues in the future, then this implies that all new residential uses within such precincts must be treated as an agent of change. Under this approach, guidance will be needed for determining some 'assumed' level of live music related noise within the precinct, and acceptable noise mitigations responses that new residential uses must incorporate.
2.0	There are few areas anywhere in Victoria where alternative noise standards apply via local Planning Schemes. Stakeholder interviews with DTP have noted that the example of Marvel Stadium in Docklands and the Design and Development Overlay Schedule 12 (DDO12) in the Melbourne Planning Scheme is a State-significant outdoor recreation facility and that significant strategic justification would need to exist to apply the same approach to a live music precinct.	Whilst it is unlikely that a case could be made for applying a different noise standard for the emission of live music noise in St Kilda to what applies across the rest of the State, the opportunity may exist to apply a different noise standard for the design of noise sensitive residential uses. This approach would ensure that future residential uses within the precinct are attenuated in anticipation of there being additional noise related activities in proximity to the use within the live music precinct. Further work would need to be done to establish the relevant noise standard, its potential benefit and costs.
3.0	Many live music venues as defined in the Live Music Action Plan are not included in the Clause 53.06 definition such as recording studios and public halls. Whilst these venues have not been required to comply with the requirements of Clause 53.06-3, they are also not afforded	Expanding the definition of a live music entertainment venue to include significant cultural venues such as public halls, and lower-order music venues such as recording studios will better protect and identify live music entertainment venue to which the Agent of Change principle applies.



	<p>protection from residential encroachment by the Agent of Change principle.</p>	<p>If an existing venue used for performances of music that operated prior to the introduction of the 'Agent of Change' clause is listed in clause 3.0, noise attenuation requirement is only triggered when the live music entertainment venue seeks to expand its operations and requires a planning permit to do so under the zone.</p>
--	---	--

3.6 Clause 52.27 – Licensed Premises

Clause 52.27 deals with planning permits specifically for licensed premises. Its purpose is to ensure that licensed businesses are situated in appropriate locations and that the impact of those premises on the amenity of the surrounding area is considered.

Not all licensed premises include live music entertainment. However, there is a high likelihood of licensed premises being venues which also accommodate the performance of music.

Some categories of Liquor Licences issued by Liquor Control Victoria (LCV) include live music and entertainment conditions in addition to standard amenity conditions which include references to music noise regulations. These include:

- General Licences
- On-Premises Licences
- Late night Licences

A planning permit is required to use land for the sale and consumption of liquor pursuant to Clause 52.27 in situations where:

- a licence is required under the *Liquor Control Reform Act 1998 (Vic)*, noting that Clause 52.27 does not apply to a limited licence or to a licence to manufacture liquor.
- a different licence or class of liquor licence is required from that which is in force.
- the hours of trading allowed under any licence are to be extended.
- the number of patrons allowed under a licence is to be increased.
- the area where liquor is allowed to be consumed or supplied is to be increased.

An assessment under Clause 52.27 includes consideration of:

- the Planning Policy Framework relevant to licensed premises
- amenity – the impact of the sale or consumption of liquor permitted by the liquor licence, hours of operation and number of patrons on the amenity of the surrounding area
- cumulative impact – the cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

Planning Practice Note 61 (PPN61) provides guidance about the concept of cumulative impact in relation to licensed premises.

Issues and Opportunities related to Licensed Premises

Issue	Opportunity
Licensed premises commonly play recorded music, and generate noise-related complaints relating either to the volume of recorded music, or noise impacts associated with other activities such as patron egress, waste collection etc.	Opportunities may exist to introduce the 'agent of change' principle to future licensed premise policies that identify preferred locations for licensed premises, and guidance over the operation of such facilities.



3.7 Live Music on Public Land

Public land is often used for the performance of live music. These can range from:

- Larger music events and festivals (requiring the closure of parks or streets),
- Live music as an extension of an adjoining land use on private land, such as a hospitality venue's outdoor dining/alfresco dining space, and
- Busking which can include any performance including live music on public land, such as parks and footpaths.

The use of Council land for events, outdoor dining and busking is regulated by Council's Local Laws.

Music events and busking

Clause 62.03 (Events on Public Land) of the Port Phillip Planning Scheme states the following in relation to events on public land:

Any requirement in this scheme relating to the use of land or the construction of a building or the construction or carrying out of works does not apply to:

- *an event on public land; or*
- *temporary buildings or works required for the event;*

where that event has been authorised by the public land manager or by the council under a local law.

An event includes land used to provide temporary cultural or community activities and entertainment such as a concert, festival or exhibition.

This does not apply to public land where a local provision of this scheme specifically regulates an event for a particular site.

An 'event' includes music festivals.

Live music performances on public land as extensions to existing adjacent land uses

There are certain types of uses that do not trigger consideration of the live music provisions contained in clause 53.06 because either the use itself does not require a permit, or because the use has 'existing use rights'. By extension, the performance of live music on public land adjacent to these premises is typically not regulated via the Clause 53.06 provisions.

Pursuant to **Clause 62.01 Uses Not Requiring a Permit:**

Any requirement in this scheme relating to the use of land, other than a requirement in the Public Conservation and Resource Zone, does not apply to:

- *The use of land in a road if the use is associated with the use of adjoining land and is authorised by the Council under a local law*

As noted in the control above, the performance of live music on public land adjacent to such premises is regulated by Council's Local Laws.

Indeed, all music events, alfresco dining, and busking would still be required to comply with the Council's Local Laws, *Environment Protection Regulations 2021* and Noise Protocol requirements.

Issues and Opportunities for Live Music on Public Land

Issue	Opportunity
<p>The St Kilda Live Music Precinct preliminary study area includes several large public open spaces which hold or have the potential to hold music events and festivals. These large public open spaces are <u>not</u> considered a live music entertainment venue under Clause 53.06 and do not benefit from protection from residential encroachment.</p> <p>Live music events are regulated by the Local Laws and are required to undertake noise modelling and consider acoustic shielding to comply with the Environment Protection Regulations regardless.</p> <p>Music events, busking and alfresco dining do not require planning permission for use or development under the Port Phillip Planning Scheme. Therefore Clause 53.06 does not apply to any public land which is used regularly for live music events, alfresco dining and busking.</p>	<p>Given that the use and development of land for music events, busking and alfresco dining do not require planning approval, the inclusion of public open spaces frequently used for hosting live music events as outdoor live music entertainment venues in Clause 3.0 of the schedule under Clause 53.06 would mean that the requirement for noise sensitive residential use to attenuate from any outdoor live music entertainment venue such as public open spaces would still apply.</p>



3.8 Clause 63 – Existing Permitted Uses & Existing Use Rights

There is a wide variation in the way that planning permits allow and/or regulate live music in venues across St Kilda. There are instances where permits contain conditions which do not allow the performance of live music at all, and that the conditions that are imposed on venues can vary significantly from premises to premises, without there being a clear rationale for the differences.

Other issues and opportunities arising from the regulatory framework in practice relates to planning permit conditions for live music entertainment venues and noise sensitive residential uses which are impractical, unenforceable, onerous, reference the incorrect noise provisions, or are duplicative of or contrary to other regulatory regimes such as liquor licencing and environment protection (noise).

Whilst some venues operate based on existing use rights, the planning scheme provisions relating to existing use rights are highly limiting and not conducive to the intensification or growth of live music venues.

Existing use rights are created by Section 6(3) of the Act, which confers the existing use right in terms of the purpose for which the land is used at the relevant date.

Clause 63 of the VPPs is also relevant when the present-day Planning Scheme prohibits or restricts a use or development of land which was lawfully carried out before the approval date of the relevant changes to the legislation.

Pursuant to Clause 63.01 Extent of Existing Use Rights of the VPPs, an existing use right is established in relation to use of land if any of the following apply (as relevant):

- *The use was lawfully carried out immediately before the approval date.*
- *A permit for the use had been granted immediately before the approval date and the use commences before the permit expires.*
- *A permit for the use has been granted under Clause 63.08 and the use commences before the permit expires.*
- *Proof of continuous use for 15 years is established under Clause 63.11.*

Clause 63.02 to 63.12 of the VPPs outline the provisions related to the characterisation of use, definitions and types of uses, expiration of existing use rights, alternative uses, proof of continuous use, and decision guidelines. Notably, Clause 63.04 and Clause 63.05 outline the terms upon which a use in a Section 1 or Sections 2 and 3 may continue:

- Pursuant to Clause 63.04, a use in Section 1 of a zone for which an existing use right is established may continue provided that any condition or restriction to which the use was subject to and which applies to the use in Section 1 of the zone continues to be met.
- Pursuant to Clause 63.05, a use in Sections 2 and 3 of a zone for which an existing use right is established may continue provided:
 - *No buildings or works are constructed or carried out without a permit. A permit must not be granted unless the buildings or works complies with any other building or works requirements in this scheme.*
 - *Any condition or restriction to which the use was subject continues to be met. This includes any implied restriction on the extent of the land subject to the existing use right or the extent of activities within the use.*

- *The amenity of the area is not damaged or further damaged by a change in the activities beyond the limited purpose of the use preserved by the existing use right.*

Existing use rights are complex, site-specific, and established on a case-by-case basis and as such is unable to be generalised at a precinct scale.

Issues and Opportunities for Existing Use Rights

Issue	Opportunity
Whilst the purpose of Clause 63 recognises the right of non-conforming live music venues to continue operating, these provisions are highly limiting and not conducive to growth. The nature of existing use rights is that such uses will cease one day.	<p>There may be opportunities to rezone some venues that currently operate on the basis of existing use rights under a residential zone within an activity centre context.</p> <p>For many other venues there may be opportunities to either amend their permits (by agreement) or issue new planning permits so that they provide more certainty to perform live music and more consistency with the conditions that are used to manage live music activities across venues within the precinct.</p>



3.9 Clause 65 – Decision Guidelines

Clause 65 sets out guidelines for councils when they are making decisions about planning permits in their role as a responsible authority.

Before deciding on a planning permit application, councils must consider, as relevant to live music:

- *The matters set out in section 60 of the Act.*
- *Any significant effects the environment, including the contamination of land, may have on the use or development.*
- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the environment, human health and amenity of the area.*
- *The proximity of the land to any public land.*
- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*
- *The impact the use or development will have on the current and future development and operation of the transport system.*

3.10 Planning Practice Notes

3.10.1 Planning Practice Note 81 Live Music and Entertainment Noise

PPN81 provides guidance about the operation of Clause 53.06 and includes practical guidance on ways to meet the requirements of Clause 53.06-3 through attenuation of a live music entertainment venue or a noise sensitive residential use.

PPN81 clarifies the requirements to be met for noise sensitive residential uses as follows:

- As the agent of change, a new noise sensitive residential use must be designed to be satisfactorily protected from unreasonable levels of live music and entertainment noise.
- Any information supporting an application for a new residential use should address the existing noise impact on the proposed residential use.
- It is not necessary to consider whether existing noise emissions from a *live music entertainment venue* comply with the Regulations. This is a matter to be determined by a separate process through enforcement action or other proceedings.

PPN81 also provides clarification of what defines an indoor and outdoor live music entertainment venue that a new noise sensitive residential use must be designed and constructed to include noise control measures reducing noise levels from, as follows (underlined, my emphasis):

- *indoor* live music entertainment venue (including an outdoor space of a substantially indoor venue) to below the noise limits specified in the Regulations.
- *outdoor* live music entertainment venue (a public premises where music is played in the open air, such as a major sports and recreation facility) to below 45 dB(A) (a-weighted decibel), assessed as an L_{eq} (Equivalent Continuous Sound Level) over 15 minutes.

In relation to the noise limits specified in Clause 53.06-3, PPN81 clarifies that:

- The *Australian Standard for Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors – AS 2107:2000 (AS2107)* forms the basis for recommended design noise levels such as 35 to 40dBAL_{eq} for bedrooms in dwellings near major roads. However, the AS2107 is primarily intended to be applied to steady noise sources, such as road traffic, and mechanical plant noise and does not adequately acknowledge the variable noise characteristics of music noise that can interrupt sleep.
- The noise standards in the *Environment Protection Regulations* are developed specifically to protect residents from ‘unreasonable’ and ‘aggravated’ noise from entertainment venues. It prescribes separate noise limits for the day and evening period and for the night period for an indoor venue, taking into consideration the characteristics of music noise which need to be assessed differently to more broadband noise sources.
- The standards in clause 53.06-3 for a *noise sensitive residential use* operate together with the Part II – A provisions of the Noise Protocol to protect the amenity of residents while inside, when windows and external doors are closed.
- Aggravated noise is prohibited by the *Environment Protection Act 2017*.



Permit conditions

Whilst permit conditions to attenuate noise in buildings are best established on a case-by-case basis and with advice of a suitably qualified acoustic engineer, the PPN81 also includes model permit conditions to address noises that are typically generated from a live music entertainment venue or for a noise sensitive residential use near a live music entertainment venue. These do not provide a 'base level' for the attenuation requirements, but relate to the implementation of acoustic measures, measurement of noise, and enforcement of noise levels.

The standard City of Port Phillip conditions are further discussed in Section 3.11.5.

Enforcement of noise complaints

PPN81 provides guidance on the enforcement of noise complaints, and which is generally enforcement to ensure compliance with conditions specified in the planning permit.

Enforcement action against noise complaints can be taken by:

- Local government planning enforcement officers, who can enforce against planning permit conditions pursuant to the *Planning and Environment Act 1987*.
- EPA officers, who can issue a remedial notice under section 271 or 272 of the *Environment Protection Act 2017* for breach of the Regulations.
- Liquor licence compliance inspectors, who can enforce liquor licence conditions under the *Liquor Control Reform Act 1998*.
- Police officers, who can enforce liquor licence conditions, as well as direct an entertainment venue to act to abate noise under section 169 of the *Environment Protection Act 2017*.
- Local government environmental health officers, who can act under the nuisance provisions of the *Public Health and Wellbeing Act 2008*.

Enforcement of planning permit conditions are further discussed in Section 3.11.6.

3.10.2 Planning Practice Note 61 Licensed premises: Assessing cumulative impact

PPN61 provides guidance about the operation of Clause 52.27 Licensed Premises, including the concept of cumulative impact in relation to licensed premises.

In terms of amenity, Councils must consider things that affect the amenity of the surrounding area, including:

- the impact of the sale or consumption of liquor permitted by the liquor licence
- the hours of operation
- the number of patrons.

‘Cumulative impact’ refers to both the positive and negative impacts that can result from clustering a particular land use or type of land use together, for instance, licensed premises.

- Positive cumulative effects can be enhanced vitality and economic benefits in an area.
- Negative cumulative effects can be increased violence and anti-social behaviour.

Of relevance, PPN61 states “*Licensed premises with a patron capacity over 200 may pose a greater risk of alcohol-related harm and result in a negative cumulative impact*”.

The practice note about cumulative impact is particularly intended to be applied to any new or expanded licensed premises that:

1. will be licensed and open after 11pm
2. is in an area where there is a cluster⁸ of licensed premises.

Potential cumulative impacts from a cluster of licensed premises will vary between locations, depending on the mix and number of venues and whether the area is a destination for activities associated with the supply of alcohol.

A cumulative impact assessment will not always be necessary for all applications for a planning permit pursuant to Clause 52.27. The schedule to Clause 52.27 can be used to specify types of liquor licence applications which do not require a planning permit.

Issues and Opportunities for Licensed Premises

Issue	Opportunity
The clustering of licensed premises can have a negative cumulative effect such as increased violence and anti-social behaviour, depending on the mix and number of venues and whether the area is a destination for activities associated with the supply of alcohol. The negative cumulative effect can be exacerbated by the size of venues and operating hours.	Explore the creation of a liquor licence local policy alongside the St Kilda Live Music Precinct local policy to investigate any unintended consequences of clustering live music entertainment venue (which can also be licensed premise) in terms of a negative cumulative impact.

⁸ A ‘cluster’ is where there are three or more licensed premises (including the proposed premises) within a radius of 100 metres from the subject land, or 15 or more licensed premises (including the proposed premises) within a radius of 500 metres from the subject land.



3.10.3 Planning Practice Note 83: Assessing external noise impacts for apartments

This practice note gives guidance about the operation of Clause 55.07-7 (Noise impacts) and Clause 58.04-3 (Noise impacts) which specify noise levels that should be met for apartment developments within the 'noise influence area' specified in Table 1 of this clause. These noise influence areas are defined as 'X' number of metres away from an Industry zone, roads (carrying 40,000 Annual Average Daily Traffic Volume) and railways.

An apartment development in these noise influence areas should be designed to achieve the following noise levels:

- Not greater than 35dB(A) for bedrooms, assessed as an Laeq,8h from 10pm to 6am.
- Not greater than 40dB(A) for living areas, assessed Laeq,16h from 6am to 10pm.

The focus of the noise standards in the above controls is to mitigate the impact of noise from roads, rail and industry on the internal amenity of apartment developments. The standards do not identify live music venues as a potential source or noise, and they do not contain any music-specific noise levels (noting that the noise characteristics of live music are very different from industry, roads and rail lines).

Issues and Opportunities for Noise Impacts for Apartments

Issue	Opportunity
The current noise standards for apartments do not identify live music noise as a potential noise source. They also do not contain any music-specific noise levels (noting that the noise characteristics of live music are very different from industry, roads and rail lines).	A local policy could identify live music noise as a potential noise source in the St Kilda precinct and set music-specific noise levels (noting that the noise characteristics of live music are very different from industry, roads and rail lines).
The AS2107 from which recommended design noise levels such as 35 to 40dBALeq for bedrooms in dwellings near major roads is derived does not adequately acknowledge the variable noise characteristics of music noise that can interrupt sleep.	Different types of building and internal design strategies would be required for noise sensitive residential uses that appropriately respond to the variable noise characteristics of music noise. This may include locating noise-sensitive rooms (particularly bedrooms) away from significant noise exposure by using spaces like walkways, laundries, and storage as a buffer.

3.11 Planning Framework in Practice

3.11.1 Planning Permit Application Process

A typical planning permit application process for a noise sensitive residential use and for a new live music entertainment venue (where a planning permit is required for its use and development under the relevant zone) is included in Appendix 6.3.

Generally, these include the following steps:

- Pre-planning stage (which includes identifying any live music entertainment venue or noise sensitive residential use within 50 metres of the subject site and designing the proposed live music entertainment venue or noise sensitive residential use to the relevant noise requirements)
- Planning Assessment
- Requesting Further Information
- Public Notice (Advertising)
- Consideration of Objections
- Making a Decision
- Appealing the Decision (if applicable)
- Enforcement of permit conditions (if a permit is granted)

In practice, the complexity and confusion arise at the following pain points:

- Identifying and defining a live music entertainment venue under Clause 53.06 (which informs a noise assessment)
- As-of-right land use and developments (which do not trigger a permit under the zone)
- Existing uses and non-compliant noise levels
- Drafting appropriate permit conditions
- Enforcement of permit conditions including the measurement of noise
- Multiple legislative approvals and associated conditions (which may be duplicative or contradictory)

Each of the above points are discussed in the following pages.

The following pain points also arise:

- The decision guidelines in planning assessments uses subjective language.
- The time and cost encountered through appeals process when Clause 53.06 was not appropriately considered or applied.



3.11.2 Identifying and defining a Live Music Entertainment Venue under Clause 53.06

An application for a new noise sensitive residential use with appropriate consideration given to the Clause 53.06 application process requires the accurate identification of live music entertainment venues within 50 metres, and a clear understanding of what a live music entertainment venue is.

Pursuant to *Clause 53.06-2 – Meaning of Terms*, a live music entertainment venue live music entertainment venue is defined to mean:

- a food and drink premises, nightclub, function centre or residential hotel that includes live music entertainment (underlined, my emphasis)
- a rehearsal studio

A live music entertainment venue is not separately defined as a Land Use Term under Clause 73.03 of the VPPs.

Is there a minimum frequency of live music acts to be classified as a live music venue?

In *QP99 Pty Ltd v Yarra CC [2018] VCAT 427*, the case had proceeded to Appeal without any analysis of music noise emanating from the Clifton Hill Brewpub. The Tribunal noted:

22 Although there was a suggestion by the Applicant that the Clifton Hill Brewpub is not a live music venue, we are satisfied that it is such a venue and it is appropriate that the application be assessed having regard to Clause 52.43. We acknowledge that the number of live acts may have risen and fallen over time and that there may have been periods when live acts at the Clifton Hill Brewpub occurred infrequently.

23 Clause 52.43 does not specify a minimum number of live acts that must occur in a given period for an establishment to be classified as a live music venue...

It is reasonable to assume that many food and drink premises like the Clifton Hill Brewpub which have included live music entertainment in the past or may not have hosted or advertised live music entertainment recently could be overlooked in the identification of a live music entertainment venue to inform acoustic reports and the design response of a noise sensitive residential use. This is because the drafting of Clause 53.06 still does not specify a minimum number of live acts that must occur in a given period to be classified as a live music venue.

The reliance on a noise sensitive residential use proponent who bears the responsibility of identifying existing live music entertainment venue (but in whose best interest it is to actively avoid doing so) can also be seen to create an inherent conflict and is a weakness of the Agent of Change clause⁹.

⁹ Agent of Change White Paper, Music Victoria, 2018, page 15

Issues and Opportunities for identifying and defining live music entertainment venues

Issue	Opportunity
Failure to clearly identify and define live music entertainment venues early in the design process can lead to poor design response and costly legal intervention through the planning process.	Implementing a Live Music Precinct and schedule to Clause 53.06 that captures the majority of existing live music entertainment venues or venues with potential for live music would facilitate timely consideration of acoustic treatments of live music entertainment venues noise sensitive residential use and protection of live music entertainment venues.
There may be significantly more live music entertainment venue live music entertainment venue which should be protected by the Agent of Change principle, given there is no minimum number of live acts that must occur in a given period for a hospitality venue to be considered a live music entertainment venue.	

Need for costly intervention at the Tribunal to recognise overlooked live music entertainment venues

In *ARA Builders and Developers Pty Ltd v Moreland CC [2014] VCAT 1306*, the Tribunal considered whether Audrey Studios was a rehearsal studio or a venue that includes live music entertainment as defined at clause 52.43-2. The Tribunal noted that a rehearsal studio is not a land use that is defined in the planning scheme, and therefore this needed to be determined on the particular facts and circumstances:

...54 In this case, Audrey Studios has explained that it composes, performs and records live music. Preproduction is an arranging and rehearsing session of the material to be recorded, which is done with a P.A. system and amplified instruments as are rehearsals for live performance. Audrey Studios also offers the premises as a rehearsal venue for its regular clients. In light of this information, I am satisfied Audrey Studios is a rehearsal studio.

55 Having regard to this proposal, this provision requires the noise sensitive residential use to be designed and constructed to include acoustic attenuation measures that will reduce noise levels from Audrey Studios to below the noise limits specified in State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 as measured from a habitable room with the windows and doors closed. A planning permit may be granted to reduce or waive these requirements if the Council (and, upon review, the Tribunal) is satisfied an alternative measure meets the purpose of this provision.

56 The Applicant and the Council suggested a permit condition be imposed in this case to require an acoustic assessment to be done to demonstrate compliance with this provision. I understand this suggestion given the provision has come into effect toward the very end of the consideration of this case. Nevertheless, if I had been considering granting a permit, I would have required this information to be provided prior to making my final decision. The Explanatory Report says the provision requires an Applicant to include appropriate noise attenuation measures as part of a permit application (and not as part of the permit conditions). Planning permission is required if the requirements are not met, and alternative measures may have design implications that should be considered as part of the merits of a proposal in a planning application.

The lack of guidance on how to define a rehearsal studio and distinguishing this from a recording studio is an example that highlights the cost and inconvenience to both live music entertainment venue operators



and noise sensitive residential use proponents. Furthermore, given the nature of a recording studio use (which can include hiring out for rehearsal uses), it would be sensible to expand the definition of a live music entertainment venue to include recording studios as well so that Clause 53.06 applies.

This case also highlights the need to assist the Council and community with locating existing live music entertainment venues early in the process to avoid costs and delays.

Live Music Entertainment Venues which are not included within the definitions of Clause 53.06

The LMAP definition and its recognition of the wider live music industries deviate from the definition of a live music entertainment venue as defined within *Clause 53.06 Live Music Entertainment Venues* of the Port Phillip Planning Scheme. Furthermore, the plethora of music venues are usually not separately defined under the Planning Scheme.

Therefore, the following category of venues (with potential nesting of land use terms) are not currently afforded protection under the 'Agent of Change' clause even though they may be considered live music venues:

- post-production facilities and recording studios (nested under Office)
- radio stations (nested under Office)
- sound design facilities and music publishing (nested under Office)
- education bodies and music schools (nested under Education Centre)
- music organisations (nested under Place of Assembly)
- public halls supporting music entertainment and orchestras (nested under Place of Assembly)
- music shops and equipment hire (nested under Shop)

Issues and Opportunities for Live Music Entertainment Venues that are not currently included within definitions of Clause 53.06

Issue	Opportunity
Certain live music venues (such as recording studios) are not protected by the 'Agent of Change' clause, but others (such as a rehearsal studio) are. A rehearsal studio is not defined under the land use terms, but a recording studio can often function as a rehearsal studio.	Explore whether it is possible to Implement a schedule to Clause 53.06 and local policy that captures live music venues that have the potential for the performance of live music (and therefore be defined as live music entertainment venues) such as recording studios, would facilitate timely consideration of acoustic treatments of noise sensitive residential uses and protection of a wider range of live music venues.
A wide array of lower-risk live music venues is not explicitly recognised as a live music entertainment venue under Clause 53.06 and are not protected by the 'Agent of Change' clause and are vulnerable to residential encroachment over time.	Implementing a schedule to Clause 53.06 that broadens the definition of live music entertainment venues to include cultural venues, would facilitate timely consideration of acoustic treatments of noise sensitive residential uses and protection of more live music entertainment venues.

3.11.3 Existing Uses and non-compliant noise levels

In *Mylonas v Darebin CC [2016] VCAT 1583*, the noise sensitive residential use proponent failed to incorporate acoustic attenuation to the apartment development, despite being adjacent to Open Studio live music venue. The noise sensitive residential use proponent argued that:

- The live music venue exceeded SEPP N-2 and both it and the agent of change shared the responsibility to attenuate the noise; and
- Planning policy which encourages the Northcote activity centre to accommodate additional dwellings that would contribute to broader planning objectives of enhancing housing diversity in places that are convenient to services, employment and public transport.

In setting aside Council's decision to grant a planning permit, the Tribunal stated:

66 We think the policy framework is unambiguous where a residential development proposes to locate next to a live music venue that generates noise at night. The Darebin Planning Scheme clearly encourages the continuation of live music venues within the Northcote activity centre. We think that the policy sets the starting point for the discussion of noise attenuation as follows: as the agent of change, the proposed development is expected to include noise attenuation measures that would enable its future residents to enjoy acceptable amenity within their habitable rooms. The measures should ensure that the operations of the music venue are not unreasonably constrained or limited. Compliance with SEPP N-2 is not relevant to the obligation that policy places on the agent of change; the residential proposal cannot transfer all or part of its obligation if there is current non-compliance.

68 However, we think the onus to demonstrate that appropriate noise mitigation measures are to be implemented, whether in the new development and/or in the live music venue, clearly rests with the agent of change.

69 Within the above context, we find the proposal before us to be inexplicable and fatally flawed. We cannot support a proposal to place 23 dwellings adjacent to a noisy live music venue, without any noise mitigation measures in the proposed building or in the live music venue. This proposal includes not one noise attenuation measure, despite the adjournments provided by the Tribunal. None are proposed in the Open Studio. It is obvious that residents living in this building would experience unacceptable noise levels on their first night. It is inevitable there would soon be conflict between the residents and Open Studio. Such an outcome would be contrary to policy and to orderly planning.

Issues and Opportunities for existing uses and non-compliant noise levels

Issue	Opportunity
Within St Kilda, a mature activity centre of a mixed character with many established noise sensitive residential uses and live music entertainment venues, there may be many live music entertainment venues which do not currently comply with the noise regulations or were approved under different policy regimes.	Designation of St Kilda Live Music Precinct may provide an opportunity to raise public awareness of the responsibility for noise attenuation resting with the agent of change, including in a major activity centre context.



3.11.4 As-of-right use and development

Clause 53.06 applies to any permit applications required under a 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 or a noise sensitive residential use. It does not apply to circumstances where an application is not 'triggered' under the zone.

For example, a new food and drink premise that may include the performance of music (i.e., a live music entertainment venue) in the Commercial 1 Zone does not require a planning permit to occupy or to establish in an existing commercial tenancy, as noted in the analysis of permit triggers by zone contained in Appendix 6.2.

A hospitality venue such as a bar or hotel may also operate under existing use rights or under an existing planning permit which may or may not have included live music when it commenced. However, live music entertainment is a sub-ordinate ancillary use to the primary use and can occur without additional approval. In most cases existing planning permits will include standard amenity conditions which regulate noise and music levels with references to environmental noise regulations.

The combination of the above circumstances has meant that there have been comparatively few permit applications for live music entertainment venues in St Kilda, given the prevalence of live music in existing hospitality venues:

"Of the 553 Live Music Venues in Melbourne, the vast majority have been established within existing hospitality uses. Most of the time, this is either a Tavern (Bar) or a Hotel use but can also be within a Restaurant or café use. Although live music is facilitated by the occupying hospitality use, it is usually a relationship defined by a joint venture between a band or musician, and the hospitality business."

(Source - White Paper for the Live Music Action Plan for the City of Port Phillip, Chapter 11.1.1 As-of-right use and Live Music, page 52)

Council policy targeted at attracting live music to the municipality should be aware of this reality in the formulation of supporting policies.

Issues and Opportunities for as-of-right use and developments

Issue	Opportunity
In certain circumstances, live music entertainment is a sub-ordinate ancillary use to the primary use and can occur without additional approval. This makes keeping track of the true number and location of live music entertainment venues challenging.	Council policy targeted at attracting live music to the municipality should be aware of this reality in the formulation of supporting policies, and investigate systems and resources for Council officers to better keep track of the number and location of live music activity throughout the municipality and particularly within live music precincts

3.11.5 Permit Conditions

A planning permit is a legal document that allows a certain use or development to proceed on a specified parcel of land. Planning permits give permission to develop or use land in a particular way.

The benefit of the permit attaches to the land for which it has been granted and a permit can sometimes be made specific to a nominated operator.

A permit is always subject to a time limit and will expire under specified circumstances. The responsible authority will impose conditions when granting a permit and endorsed plans will also usually form part of the permit. The proposal must satisfy all the conditions on a planning permit.

Some planning permit conditions may have the effect of prohibiting live music, or amplified music (including amplified live music). Whilst it is outside the scope of this planning study to assess the merits or appropriateness of individual permits and conditions those conditions, there may be merit in reviewing whether such conditions remain appropriate, given the aspiration for St Kilda to function as a live music entertainment precinct.

Planning permit conditions can be amended with the consent of the responsible authority (Council) and so a process could be undertaken where Council works with venue operators affected by such permit conditions (and affected stakeholder) to review such permits.

This planning study has treated these types of venues as 'potential' live music entertainment venues and they have been mapped that was in the aforementioned precinct analysis.

Permit conditions that prohibit the performance of live music could be reviewed should be further reviewed within the context of land being within a Live Music Precinct, changes to the surrounding physical and land use context over time, and planning policies for activity centres.

Where existing use rights have been established under Clause 63 of the Planning Scheme, such conditions could also be reviewed in accordance with the principles of Clause 63.04 and Clause 63.05. Irrespective of the planning permit conditions, it is noted that the General Environmental Duties (GED) under the Environment Protection Act and Regulations would apply.

Acoustic Reports as permit conditions versus application requirement

Numerous VCAT cases have highlighted Acoustic Report conditions as being an inappropriate and unacceptable means of managing the acoustic related issues and the protection of existing live music venues from residential encroachment.

These include cases like:

- *ARA Builders and Developers Pty Ltd v Moreland CC [2014] VCAT 1306*¹⁰
- *Reiner v Greater Bendigo CC [2020] VCAT 1149*¹¹

In *Reiner v Greater Bendigo CC [2020] VCAT 1149*, the Tribunal further noted the importance of establishing specific benchmarks initially in order for permit conditions to have practical and enforceable effect:

59 Whilst it is common to apply acoustic conditions to planning permit conditions...in this case, relying on a draft condition to fully address the issue of acoustics is premature and inappropriate. I am also

¹⁰ Paragraph 55-56

¹¹ Paragraph 56, 59



persuaded that in drafting an acoustic condition, specific benchmarks need to be determined and that there are too many outstanding matters that have not been adequately addressed including:

- *What is the benchmark internal noise level that needs to be achieved?*
- *How would this impact on the design? Could it be achieved by further insulation or does it require a different orientation for the residential properties?*
- *How is the issue of patron noise to be addressed?*

Live Music Entertainment Venues

The City of Port Phillips' standard conditions for bars, taverns, night clubs and liquor licences are included in Appendix 6.1.

The conditions of relevance to live music entertainment and our review comments are noted below:

- **R1** Noise Limits require that noise levels must not exceed the permissible noise levels stipulated in *Part 5.3 - Noise, of the Environment Protection Regulations 2021* for Residential Premises, Commercial, Industrial and Trade Premises and Entertainment Venues and Outdoor Entertainment Events.
- **R7** Noise Monitor required to be installed and maintained, set at a level by a qualified acoustic engineer, to ensure the escape of amplified music does not exceed the requirements of Division 1 and 4 of Part 5.3 - Noise, of the Environment Protection Regulations 2021.
- **R8** Noise Report required before the use commences to confirm that a Noise Monitor and Limiter is operating and has each and every of the following characteristics which are also operating:
 - *the Device limits internal noise levels so as to ensure compliance with the music noise limits according to Division 1 and 4 of Part 5.3 - Noise, of the Environment Protection Regulations 2021 to the satisfaction of the Responsible Authority;*
 - *the Device is a limiter suitable for interfacing with a Permanently Installed Sound System which will include any amplification equipment and loudspeakers;*
 - *the Device monitors noise levels at frequencies between 50Hz and 100Hz and is wired so as to ensure that the limiter governs all power points potentially accessible for amplification;*
 - *the Device controls are in a locked metal case that is not accessible by personnel other than a qualified acoustic engineer or technician nominated by the owner of the land and notified to the Responsible Authority;*
 - *the Device is installed to control all amplification equipment and associated loudspeakers;*
 - *the Device is set in such a way that the power to the amplification equipment is disconnected for 15 seconds if the sound level generated by the amplification equipment exceeds for one second the maximum sound level for which the monitor is set;*
 - *the monitor level component of the Device includes a calibratable frequency discriminating sound analyser with an internal microphone incorporated in its own tamper-proof enclosure (beyond the normal reach of a person). Such a sound analyser will indicate by green, amber and red illuminated halogen lamps the approach and exceeding of the set maximum noise level. The lamps must be in the clear view of the staff and any disc jockey in the room;*
 - *the Device must prevent a relevant noise level referred to in these conditions being exceeded;*
 - *which report demonstrates compliance with Division 1 and 4 of Part 5.3 - Noise, of the Environment Protection Regulations 2021 to the satisfaction of the Responsible Authority.*
 - Once submitted and approved the noise report will be endorsed to form part of the permit.

- **R9** Amplified Music through Permanently Installed Sound System only and must be operated to ensure compliance with Division 1 and 4 of Part 5.3 - Noise of the Environment Protection Regulations 2021.
- **R10** Crowd Controllers (CC) when live entertainment and/or recorded amplified music is being played, CCs are required at a rate of 2 CC per the first 100 patrons and 1 CC for each additional 100 patrons, with 1 CC present outside the premises to monitor patrons arriving and departing the premises.
- **R11** Security Management Plan required within 3 months of the date of issue of the permit.

It is noted that permit conditions requiring an acoustic report at the end of a planning application process is an inappropriate way to address the 'Agent of Change' principle in responding to existing live music entertainment venues. Furthermore, standard permit conditions do not align with the guidance contained in PPN81 regarding Venue Management Plans and the noise parameters.

Noise Sensitive Residential Uses

The City of Port Phillip's standard condition for apartment developments in terms of noise treatment (SP38) is included in Appendix 6.1.

SP38 only requires the measuring of traffic noise intrusion within apartment bedroom and living areas (upon completion) in accordance with AS2107 to comply with the minimum noise requirements as follows:

- Between 10pm and 7am in bedrooms areas must not exceed LAeq, 9hour 40dB(A);
- Between 7am and 10pm in living rooms must not exceed LAeq (15hour) 45dB(A).

It is unclear under what circumstances the 'optional additional' permit condition requiring a report prepared by a suitably qualified professional demonstrating compliance with the requirements of this condition to be submitted prior to the commencement of the use is included on the permit.

Issues and Opportunities for Permit Conditions

Issue	Opportunity
Permit conditions requiring an acoustic report at the end of a planning application process is an inappropriate way to address the 'Agent of Change' principle in responding to existing live music entertainment venues.	<p>Embed acoustic attenuation considerations early in the planning application process for a live music entertainment venues or noise sensitive residential uses, which must address matters such as:</p> <ul style="list-style-type: none"> • <i>What is the benchmark internal noise level that needs to be achieved?</i> • <i>How would this impact on the design? Could it be achieved by further insulation or does it require a different orientation for the residential properties?</i> • <i>How is the issue of patron noise to be addressed?</i>
Standard permit conditions utilised by City of Port Phillip for inclusion on planning permits for noise sensitive residential uses cite AS2107 and include greater leniency and a longer average timeframe of 9 hours instead of 8 hours and is	Different acoustic performance for noise sensitive residential uses (not just apartments) could be considered for land within the St Kilda Live Music Precinct preliminary study area recognising the potential for future music noise



suites to traffic noise rather than responding to the noise levels of an existing live music entertainment venues.	and greater intensity of activity within the activity centre.
Standard conditions do not include a Venue Management Plan condition which can address patron noise and other means by which noise is managed, as recommended by PPN81.	

3.11.6 Planning Enforcement

The CoPP Music Noise Investigation Procedures and Protocols typically survey land uses including cafes, restaurants, taverns and hotels.

The procedure includes a three-stage process with the key steps as following:

Initial Complaint - ASK

- Investigating the initial complaint and the Planning Permit requirements via a desktop audit.
- Inform operator that further identified breaches may result in enforcement action (fines) and remind operator of their obligations under the planning permit by providing a copy.
- Ask that operator takes reasonable steps to amend business practices, if required.
- Advise operator that further complaints will necessitate an inspection of the venue and proactive monitoring.
- Should further complaints be reported, undertake further inspections if required, request a meeting with the operator, undertake an inspection/audit of the venue, and place the premise on the proactive list of premises for after-hours monitoring.

Further allegations or identified breaches - TELL

- If evidence establishes a significant breach impacting on residential amenity, provide operator the opportunity to bring land into compliance within a prescribed timeframe.
- If the operator does not proactively respond to Council, explore undertaking acoustic testing and commission an acoustic report.
- If a noise breach is confirmed, may issue an Official Warning.

Repeated music noise disturbances - ENFORCE

- Further confirmed noise breaches may result in issuance of Planning Infringement Notices (PINs) upon both the operator and owner of the land.
- If there are 3 PINs issued, PINs are subject to internal review processes if requested, and may be elected to be heard and determined at Court. In the case of the latter, the PIN must be withdrawn.
- Take witness statements, affidavits, request operator / land owner attend a formal interview, and prepare brief of evidence.
- Initiate prosecution proceedings at Magistrates Court and/or Enforcement Order Application at VCAT.

Issues and Opportunities for Planning Enforcement

Issue	Opportunity
The proximity of noise sensitive residential uses to existing and future live music venues in the mixed-use context of activity centres mean that the enforcement process has the potential to be an overly reactive and complaints-driven without providing support for amelioration of residential amenity impact.	<p>Council's Live Music program should include a pro-active element where Council provides assistance to venue operators to achieve good and best practices and investigate further opportunities to work with venues to seek independent acoustic engineer advice and installation of noise limiter systems prior to taking enforcement action.</p> <p>Council should also establish a noise complaint register that allows for a more in depth understanding of live music related noise issues, including the location of venue and noise</p>



	complainant, nature of the noise concerns, actions take, and outcomes achieved.
--	---

4.0 Appendices

4.1 Analysis of Permit Triggers by Zone for Land Use

Noise Sensitive Residential Uses and its associated land use definitions

Nesting	Accommodation						
Land Use Term	Community care accommodation	Dependent Persons Unit (DPU)	Dwelling	Residential aged care	Residential village	Retirement village	Rooming house
Commercial 1 Zone (Note: A planning permit is required for all buildings and works except minor building works)	Planning permit required	No planning permit required	No planning permit required	No planning permit required	No planning permit required	No planning permit required	No Planning permit required – if ground floor frontage <2m
General Residential Zone and Neighbourhood Residential Zone (Note: A planning permit is required for buildings and works associated with a Section 2 Permit Required land use)	No planning permit required – if meet Clause 52.22-2	No PP Req – if it is the only DPU	No planning permit required	No planning permit required	Planning permit required	Planning permit required	No Planning permit required – if meet Clause 52.23-2
Mixed Use Zone (Note: A planning permit is required for buildings and works associated with a Section 2 Permit Required land use)	No planning permit required – if meet Clause 52.22-2	No PP Req – if it is the only DPU	No planning permit required	No planning permit required	Planning permit required	Planning permit required	No Planning permit required – if meet Clause 52.23-2

Live Music Entertainment Venues and its associated land use definitions

Nesting	Retail Premise	Place of Assembly			Accommodation
Land Use Term	Food and drink premise	Nightclub	Function centre	Rehearsal studio	Residential Hotel
Commercial 1 Zone (Note: A planning permit is required for all buildings and works excluding internal alterations and limited minor building works)	No planning permit required	Planning permit required	Planning permit required	Planning permit required	No planning permit required
General Residential Zone and Neighbourhood Residential Zone (Note: A planning permit is required for buildings and works associated with a Section 2 Permit Required land use)	Planning permit required	Prohibited	Planning permit required	Planning permit required	Planning permit required



Mixed Use Zone (Note: A planning permit is required for buildings and works associated with a Section 2 Permit Required land use)	No Planning permit required – if leasable floor area <150sqm	Planning permit required	Planning permit required	No Planning permit required – if less than 250sqm	Planning permit required

Permit triggers in Public Zones

Land Use Term	Noise sensitive residential use	Live Music Entertainment Venue
Public Use Zone 6 (Car Parks – Local Government)	Planning permit required – use must be carried out by or on behalf of the public land manager, and if not for the purpose of local government.	
Public Park and Recreation Zone	Planning permit required- Must be a use conducted by or on behalf of a public land manager, Parks Victoria or the Great Ocean Road Coast and Parks Authority or a use specified in an Incorporated Document.	

Planning Permit triggers in Special Zones

	Live Music Entertainment Venue					Noise sensitive residential use						
Nesting	Retail Premise	Place of Assembly			Accommodation	Accommodation						
Land Use Term	Food and drink premise	Nightclub	Function centre	Rehearsal Studio	Residential Hotel	Community care accommodation	DPU	Dwelling	Residential aged care	Residential village	Retirement village	Rooming house
CDZ3 (Acland Courtyard)	No planning permit required – if Restaurant max 200 seats only	Planning Permit required	Planning Permit required	No PP Req – if above ground floor	Planning Permit required	Planning Permit required	Planning Permit required	No Planning Permit required	Planning Permit required	Planning Permit required	Planning Permit required	Planning Permit required
SUZ3 (St Kilda Triangle) –see approved Development Plan	No Planning Permit required – if Restaurant	No Planning Permit required	No Planning Permit required	Planning Permit required	Planning Permit required	Planning Permit required	Planning Permit required	Prohibited	Planning Permit required	Planning Permit required	Planning Permit required	Planning Permit required
SUZ2 (Luna Park)	Must be ancillary to Amusement Park – see incorporated Document.			Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
SUZ2 (St Kilda Sea Baths)	Incorporated Document allows a health and fitness centre incorporating heated sea baths as a primary activity, swimming pools...including drinking and eating areas including liquor, takeaway food facilities, entertainment, tourist, special events, car park. Relevant conditions include: Uses shall operate between 5:30am and 1am, subject to the Responsible Authority providing an extension in writing. Noise level emanating must be restricted to the relevant SEPP N1 and N2 or relevant.											

4.2 CoPP Standard Noise Permit Conditions

BARS, TAVERNS, NIGHTCLUBS AND LIQUOR LICENCES

R1 Noise Limits

Noise levels must not exceed the permissible noise levels stipulated in Part 5.3 - Noise, of the *Environment Protection Regulations 2021* for Residential Premises, Commercial, Industrial and Trade Premises and Entertainment Venues and Outdoor Entertainment Events to the satisfaction of the Responsible Authority.

R2 Responsible Serving of Alcohol

The Permit Operator must require that all employees of the premises engaged in the service of alcohol undertake a "Responsible Serving of Alcohol" course.

R3 Bottle Crusher

A bottle crusher located within the premises must be used for the disposal of bottles and waste glass. Disposal of the crushed glass outside of the premises must not occur after 10pm or before 8am Monday to Saturday or after 10 pm or before 10am on Sunday, except with further written consent of the Responsible Authority

or

R4 Bottle Bagging Times

Bottles must be bagged during operation times and must not be emptied into the external refuse bins after 10pm or before 8am Monday to Saturday or after 10 pm or before 10am on Sunday, except with further written consent of the Responsible Authority.

R5 No Dancing

No dancing is permitted on the premises.

R6 No Amplified Music

No amplified music is permitted on the premises.

R7 Noise Monitor

Before the use commences, the Permit Operator must install and maintain a Noise Limiter ("the Device"), set at a level by a qualified acoustic engineer, to ensure the escape of amplified music does not exceed the requirements of Division 1 and 4 of Part 5.3 - Noise, of the *Environment Protection Regulations 2021* to the satisfaction of the Responsible Authority.

R8 Noise Report

Before the use commences, a report prepared by a suitably qualified Acoustic Consultant must be submitted to, approved by and be to the satisfaction of Responsible Authority and must confirm that a Noise Monitor and Limiter ("the Device") is operating and has each and every of the following characteristics which are also operating:



- the Device limits internal noise levels so as to ensure compliance with the music noise limits according to Division 1 and 4 of Part 5.3 - Noise, of the Environment Protection Regulations 2021 to the satisfaction of the Responsible Authority;
- the Device is a limiter suitable for interfacing with a Permanently Installed Sound System which will include any amplification equipment and loudspeakers;
- the Device monitors noise levels at frequencies between 50Hz and 100Hz and is wired so as to ensure that the limiter governs all power points potentially accessible for amplification;
- the Device controls are in a locked metal case that is not accessible by personnel other than a qualified acoustic engineer or technician nominated by the owner of the land and notified to the Responsible Authority;
- the Device is installed to control all amplification equipment and associated loudspeakers;
- the Device is set in such a way that the power to the amplification equipment is disconnected for 15 seconds if the sound level generated by the amplification equipment exceeds for one second the maximum sound level for which the monitor is set;
- the monitor level component of the Device includes a calibratable frequency discriminating sound analyser with an internal microphone incorporated in its own tamper-proof enclosure (beyond the normal reach of a person). Such a sound analyser will indicate by green, amber, and red illuminated halogen lamps the approach and exceeding of the set maximum noise level. The lamps must be in the clear view of the staff and any disc jockey in the room;
- the Device must prevent a relevant noise level referred to in these conditions being exceeded;
- which report demonstrates compliance with Division 1 and 4 of Part 5.3 - Noise, of the Environment Protection Regulations 2021 to the satisfaction of the Responsible Authority.

Once submitted and approved the noise report will be endorsed to form part of the permit.

R9 Amplified Music through Permanently Installed Sound System

Amplified music is not permitted to be played other than through the Permanently Installed Sound System and when the Device is installed and operating to ensure compliance with Division 1 and 4 of Part 5.3 - Noise, of the *Environment Protection Regulations 2021* to the satisfaction of the Responsible Authority.

R10 Crowd Controllers

When live entertainment and/or recorded amplified music is being played, the Licensee must ensure that registered crowd controllers licensed under the Private Agents Act are employed at a ratio of two (2) crowd controllers for the first 100 patrons and one (1) crowd controller for each additional 100 patrons or part thereof. One crowd controller is to be present outside the premises to monitor patrons arriving and departing the premises. Crowd controllers are to be present from 30 minutes before the start of the entertainment being provided and 30 minutes after closure.

R11 Security Management Plan

Within three months of the date of the issue of this permit, a Security Management Plan must be prepared and submitted for approval to the Responsible Authority which must provide for the following to the satisfaction of the Responsible Authority:

- An attendant or doorman responsible for monitoring the number of patrons on the premises after 11.00pm.
- The keeping of a register recording the number of patrons on the premises each hour between 11.00pm and closing time.



- The measures to be taken by management and staff to ensure patrons depart the premises and the surrounding area in an orderly manner.
- The measures to be taken by management and staff to ensure that patrons queue to enter the premises in an orderly manner and maintain satisfactory clearance for other pedestrians on the footpath.
- The measures to be taken by management and staff to ensure that patrons do not cause nuisance or annoyance to persons beyond the land.
- Liaison with Victoria Police, the City of Port Phillip, and local residents.
- A telephone number provided for residents to contact the premises and linked to the complaints register;
- The maintenance of a complaints register, which must, on reasonable request, be made available for inspection by the Responsible Authority.
- Staff being trained in the responsible service of alcohol.
- Encourage smokers to use the designated smoking area within the premises.

Once submitted and approved, the Security Management Plan must be carried out to the satisfaction of the Responsible Authority

R12 Exit Signs

Before the use commences signs must be erected near the entrance/exit and in the toilets requesting that patrons leave the building in a quiet and orderly manner so as not to disturb the peace and quiet of the neighbourhood to the satisfaction of the Responsible Authority.

R13 No Sexually Explicit Entertainment

No entertainment in the nature of table top dancing, striptease, podium dancing, lap dancing or any other form of sexually explicit entertainment may be provided on the premises.

R14 Predominant Activity on the Land

The predominant activity on the premises must be the preparation and serving of meals for consumption on the licensed premises.

SP32 SEPP N1

All air conditioning and refrigeration plant must be screened and baffled and/or insulated to minimise noise and vibration to ensure compliance with noise limits determined in accordance with Division 1 and 3 of Part 5.3 - Noise, of the Environment Protection Regulations 2021.

(Optional addition - A report prepared by a suitably qualified professional demonstrating compliance with the requirements of this condition must be submitted prior to the commencement of the use.)

SP33 SEPP N2

The level of noise emitted from the premises must not exceed the permissible levels specified in Division 1 and 4 of Part 5.3 - Noise, of the Environment Protection Regulations 2021 to the satisfaction of the Responsible Authority.

(Optional addition - A report prepared by a suitably qualified professional demonstrating compliance with the requirements of this condition must be submitted prior to the commencement of the use.)

SP38 Noise Attenuation for Apartments

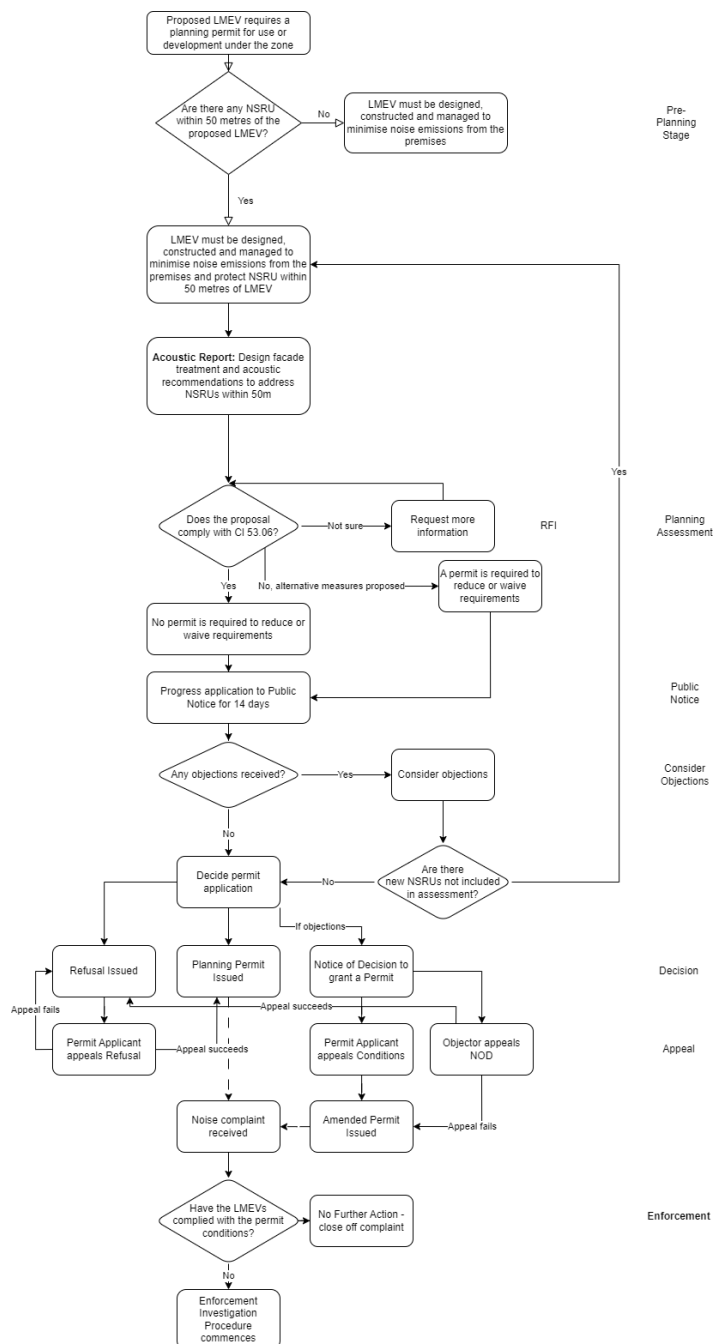
External traffic noise intrusion within apartment bedroom and living areas (upon completion; with furnishing within the spaces and with windows and doors closed) and measured in accordance with AS/NZS 2107:2016 'Acoustics - Recommended Design Sound levels and Reverberation Times for Building Interiors' shall comply with the following:

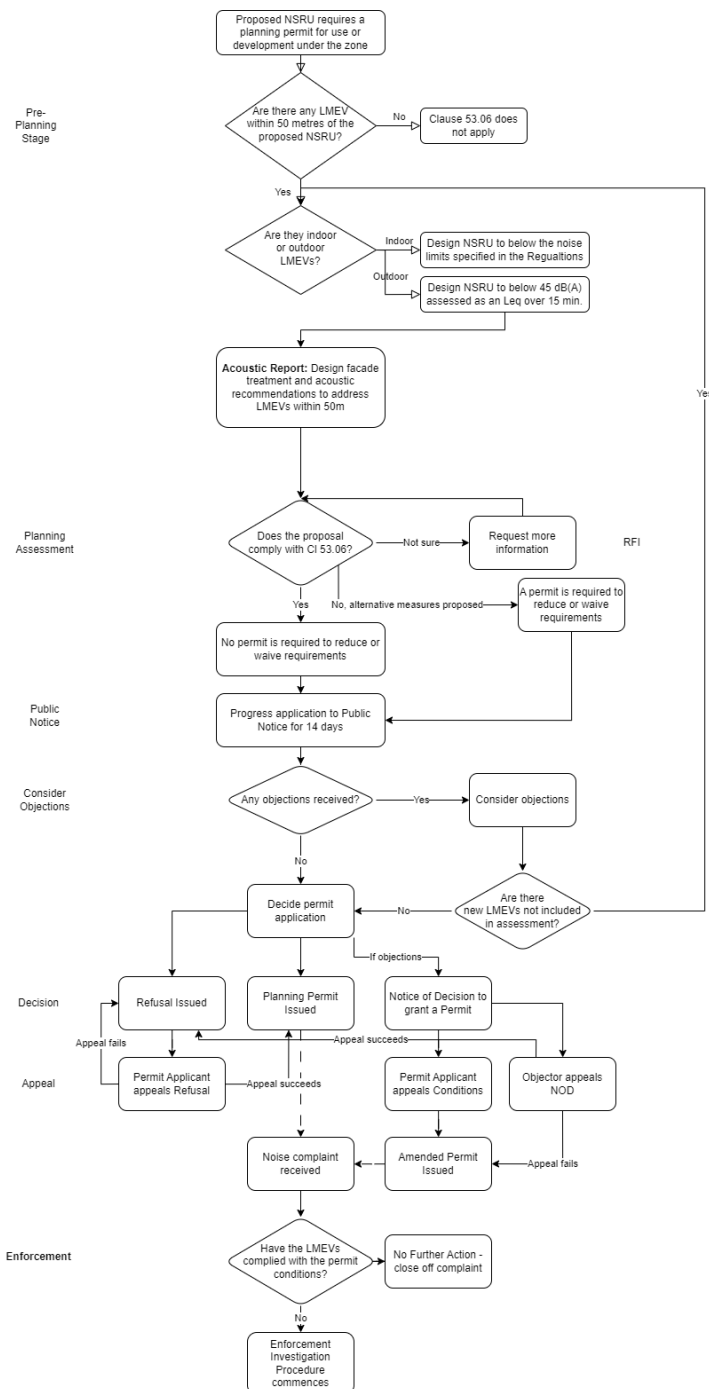


- Between 10pm and 7am in bedrooms areas must not exceed LAeq, 9hour 40dB(A);
- Between 7am and 10pm in living rooms must not exceed LAeq (15hour) 45dB(A).

(Optional addition A report prepared by a suitably qualified professional demonstrating compliance with the requirements of this condition must be submitted prior to the commencement of the use.)

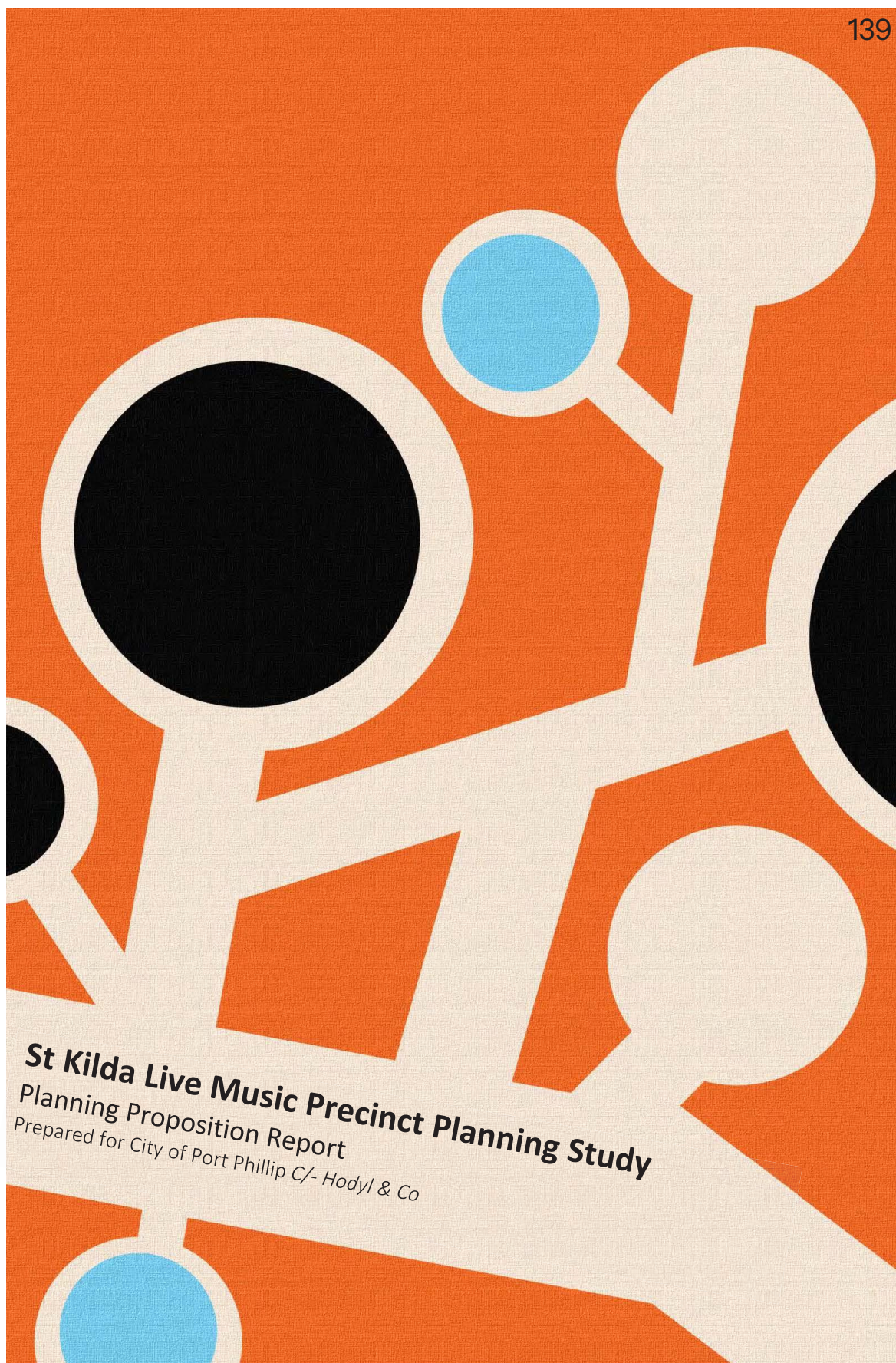
4.3 Planning Permit Assessment Process under Clause 53.06





This page left intentionally blank

B. Planning Proposition Report





Job number:	2687
Version:	V3.0
Date:	28 June 2023
Prepared by:	XW
Reviewed by:	MW



Table of Contents

Executive Summary	5
1 Policy Context	10
2 Potential Categories of Live Music Venues	18
3 Review of the St Kilda Live Music Precinct study area and sub-precincts	21
4 Options for Port Phillip Planning Scheme to better protect and support live music in St Kilda	27
Proposition 1: Using clause 1.0 of the schedule to Clause 53.06	28
Proposition 2: Using clause 2.0 of the schedule to Clause 53.06 and using a Design and Development Overlay (DDO) to set an alternative acoustic attenuation standard	30
Proposition 3: Using clause 3.0 of the schedule to Clause 53.06	32
Proposition 4: Using Local Planning Policies	34
5 Matrix of Live Music Venue Categories and Sub-Precincts	36
6 Scenario testing the Planning Proposition	37
Appendices	40
Appendix 1 Analysis of Permit Triggers by Zone for Land Use	40
Appendix 2 Planning Permit Assessment Process under Clause 53.06	43
Appendix 3 Excerpt of Clause 73.03 - Land Use Terms that include music entertainment	45



Definitions and Abbreviations

CoPP	City of Port Phillip
PPPS	Port Phillip Planning Scheme
LMEV	Live Music Entertainment Venues as defined by Clause 53.06
LM	Live Music as defined within the Live Music Action Plan 2021-2024: <i>'a music performance being given by a person or people, using their voice and/or musical instruments'</i> .
LMV	Live Music Venues as defined within the Live Music Action Plan
VPP	Victorian Planning Provisions
NSRU	Noise Sensitive Residential Uses as defined by Clause 53.06
PPN	Planning Practice Note
LMP	Live Music Precinct as defined within the Live Music Action Plan 2021-2024: <i>"an area in which live music is recognised as a priority activity"</i> .
LMAP	Live Music Action Plan 2021-2024 prepared and endorsed by the City of Port Phillip
DTP	Department of Transport and Planning
EPA	Environment Protection Authority (Vic)
VCAT	Victorian Civil and Administrative Tribunal
Act	Planning and Environment Act 1987 (Vic)
C1Z	Commercial 1 Zone
MUZ	Mixed Use Zone
GRZ	General Residential Zone
NRZ	Neighbourhood Residential Zone
PPRZ	Public Park and Recreation Zone



Executive Summary

St Kilda has a rich entertainment past and continues to sport a reputation as a 'music incubator of national significance'.

The Live Music Action Plan 2021-2024 (LMAP) endorsed by Council seeks to preserve, support, and grow the live music industry in Port Phillip and delivers Strategic Outcome 5 of the *Art & Soul Creative and Prosperous City Strategy*. The Live Music Action Plan seeks to support the wider ecosystem of live music and live music industries, of which the end-product of live music performance is just one part.

The purpose of this Planning Proposition report is to explore ways to utilise the planning and regulatory system to protect existing and future live music venues in the St Kilda Live Music Precinct.

This report draws upon the Noise Analysis prepared by Enfield Acoustics and the Planning Technical Report prepared by Echelon Planning which reviewed the planning regulatory framework for establishing a live music precinct in the St Kilda Live Music Precinct study area.

It addresses the following:

- A summary of the relevant planning and policy context (see **Section 1**).
- Review of the live music activities within the 'Live Music Precinct' study area and categorisation of live music venues (see **Section 2**).
- Review of the St Kilda Live Music Precinct preliminary study area and its associated land use and policy directives that inform sub-precincts (see **Section 3**).
- Evaluation of the tools available within the Port Phillip Planning Scheme to support live music in St Kilda, and better regulate live music venues and noise sensitive land uses (see **Sections 4-6**).

[Note - This report focuses on issues on a precinct-wide scale and does not address individual premises, planning permits or licenses].

Key Findings

The St Kilda Live Music Precinct study area includes several activity centres, including the St Kilda Major Activity Centre (MAC) and the Inkerman Street/Grey Street Local Activity Centre (LAC) which comprise a complex and finely grained mixture of non-residential uses, including live music entertainment venues, interspersed with residential uses.

There are many land uses associated with music (such as hospitality venues, places of assembly, galleries, theatres, arts organisations, places of worship, recording studios, public foreshore, and open space reserves), many of which are near noise sensitive residential uses.

The St Kilda Foreshore, Fitzroy Street and Acland Street includes a high concentration of existing licensed premises and large music venues such as the Palais Theatre, the "Espy", and the Prince of Wales Hotel.

The Inkerman Street/Grey Street LAC contains a smaller number of licensed premises and non-residential uses with live music activity such as recording studios, while the Greeves Street MAP is predominantly a residential area in transition from its industrial past.

The activity centre context of the precinct means that there are a wide range of activities that have the potential to generate adverse noise and amenity impacts. Whilst live music venues have the



potential to generate amenity impacts, the wider range of tourism and entertainment uses within the precincts also commonly generate amenity impacts associated with pre-recorded music noise, patron behaviour, waste collection, etc.

The future planning and management of land uses within the precinct must recognise that the amenity available to residents is very different to that in areas more remote from an activity centre, and that live music is only one of several activities that has the potential to cause adverse amenity impacts on residents.

The scale and impact of live music activities can vary significantly, depending on factors such as the volume and type of music being performed, the size/capacity of venues, frequency of live music performances, venue design and management, etc. However, recent planning case-law confirms that a venue should be defined as a live music venue (for the purposes of applying Clause 53.06) even if the performance of live music events to relatively infrequent¹.

In the St Kilda context, live music venues can potentially be categorised as follows:

1. Live music performed on public land – occasional performance
2. Live music performed in public and community Venues – occasional performance
3. Live music performed in Private Venues – regular performance, low noise impact
4. Live music performed in Private Venues – regular performance, medium noise impact
5. Live music performed in Private Venues – regular performance, high noise impact.

The St Kilda Live Music Precinct study area can be categorised into a series of sub-precincts, based on existing land use, and the intended strategic role of each sub-area, as follows:

1. Commercial 1 Zone land in the St Kilda Major Activity Centre (MAC),
2. Commercial 1 Zone land in the Inkerman Street/Grey Street Local Activity Centre (LAC),
3. The St Kilda Foreshore area and public open spaces that currently hosts events with live music, and special entertainment uses,
4. Unclassified live music venues and public open spaces outside of but close to Areas 1-3, and
5. Mixed Use Zone land in the Greeves Street Mixed Activities Precinct (MAP).

The pattern of existing and preferred future land uses is not uniform across the St Kilda Live Music Precinct study area, and there are some locations where the performance of live music is relatively more compatible with how they currently function, or how they are intended to function given strategic role as described under the Port Phillip Planning Scheme. For example:

- Existing live music venues and places with future potential for the performance of live music (e.g., including pubs, taverns, hotels, licensed clubs and restaurants) are predominantly concentrated in the Commercial 1 Zone (C1Z) areas of the St Kilda MAC and the Public Park and Recreation Zone (PPRZ) land of the St Kilda Foreshore.
- The Inkerman Street/Grey Street LAC and Greeves Street MAP currently have a lower concentration of existing music venues. However, under current zoning (i.e., C1Z and MUZ), it is possible to seek permission to use land for live music-related purposes.

¹ See for example *QP99 Pty Ltd v Yarra CC [2018] VCAT 427*

On this basis, there are opportunities to:

- Designate sub-precincts within the St Kilda Live Music Precinct study area and provide direction for the types of music venues encouraged to locate there; and
- Clarify the expectations for acoustic attenuation for noise sensitive residential uses within the Greeves Street MAP by expanding the boundary of the St Kilda Live Music Precinct study area to include the entirety of the as part of the residential hinterland in which live music entertainment venues with medium to high noise impact are generally discouraged.

Planning Tools

The primary state planning tool to guide the management of live music entertainment venues and nearby noise sensitive residential uses are as follows:

- Clause 13.05-1S (Noise Management)
- Clause 13.07-1S (Land Use Compatibility)
- Clause 13.07-3S (Live Music)
- Clause 53.06 (Live Music Entertainment Venues)

There is scope to customise the management of live music entertainment venues and noise sensitive residential uses via the schedule to Clause 53.06 which allows Councils to:

- Specify wider areas (i.e., a precinct) to which Clause 53.06 applies (clause 1.0),
- Specify areas where Clause 53.05 does not apply, based on alternative acoustic attenuation standards applying to such areas (clause 2.0), and;
- Expand the definition of a live music entertainment venue to apply to a wider range of venue types or locations (clause 3.0).

Council can also prepare local planning policies to provide clearer guidance on the exercise of discretion in relation to live music entertainment venues and nearby noise sensitive residential areas.

Design Development Overlays (DDO) can also potentially be used to specify alternative acoustic attenuation requirements.

In the case of activity centres, Council could apply the Activity Centre Zone and include within it customised alternative acoustic attenuation requirements.²

It would typically be expected that local policies and controls would be applied in combination. Whatever combination of policies and controls are proposed, it would be necessary to demonstrate that new local policies and customised planning controls are needed (i.e., over and above the existing state policies and default provisions of Clause 53.06) to achieve the desired land use and development outcomes for the location.

Planning propositions:

Several planning propositions have been developed as potential means to protect existing and future live music venues within the St Kilda Live Music Precinct study area. These propositions have been developed based on the analysis of the policy, regulatory, land use and development context of the St

² Land within the St Kilda precinct currently comprises a mix of more conventional land use zones and we are not aware of any proposal to introduce the ACZ across this precinct.



Kilda precinct set out in the Noise Analysis prepared by Enfield Acoustics and the Planning Technical Report prepared by Echelon Planning.

The following propositions have been developed for the purpose of scoping a potential future approach to protecting existing and future live music venues within the St Kilda Live Music Precinct study area. However, further information and analysis is needed regarding existing live music entertainment venues and noise sensitive residential uses within the St Kilda Live Music Precinct study area to establish a more definitive evidence base for recommending changes to the Port Phillip Planning Scheme.

Each of the proposition set out below present opportunities as well as practical constraints that will require further consideration and analysis before they could be sufficiently justified as an amendment to the Port Phillip Planning Scheme. These are discussed further in the body of this report.

- Draft Proposition 1: *Use clause 1.0 of the schedule to Clause 53.06 to designate the proposed St Kilda Live Music Precinct study area, including the Greeves Street MAP (Area 5) as an additional sub-precinct, as an area where Clause 53.06 applies. This would require all applications under the zone for a new noise sensitive residential use to respond to the requirements of this clause.*
- Draft Proposition 2: *Undertake further investigation on the merit of applying an alternative acoustic attenuation standard to noise sensitive residential uses within the St Kilda Live Music Precinct (in the form of a base noise insulation level that must be met at the boundary of any proposed future noise sensitive residential uses), in combination with advocacy to State Government for changes to the Environment Protection regulations to facilitate this outcome.*
- Draft Proposition 3A: *Use clause 3.0 of the schedule to Clause 53.06 to expand the definition of a 'live music entertainment venue' to apply to select venues used for frequent live music performances and live music activities.*
- Draft Proposition 3B: *Use clause 3.0 of the schedule to Clause 53.06 to apply to the select music venues currently used for infrequent live music events.*
- Draft Proposition 4A: *Update the Local Planning Policy Framework to formally identify the St Kilda Live Music Precinct, prioritise the establishment of live music entertainment venues within the precinct and require the application of the 'agent of change' principle.*

The following clauses of the Local Planning Policy would require updating:

- Municipal Planning Strategy (MPS) (Clause 02)
- Local strategies for management of music noise (Clause 13.05-1L).
- Defining sub-precinct areas where certain categories of live music entertainment venues are encouraged to locate (Clause 13.07-3L).
- Defining the live music precinct and measures which apply to ensure live music venues can co-exist with nearby residential and other noise sensitive land uses, including in sub-precincts (Clause 13.07-3L).
- Live music as a priority activity and the application of the 'agent of change' principle within activity centres (Clause 11.03-1L).

New local policy would need to be prepared to provide guidance on how new noise sensitive residential uses within the St Kilda Live Music Precinct should be sited/designed to protect them from the impact of music noise from both current and potential future live music venues³.

- Draft Proposition 4B: Clarify the definition of 'live music entertainment' to specifically exclude amplified pre-recorded music.

³ The application of this requirement could be limited to noise sensitive residential uses within those sub-precincts where all forms of live music entertainment venue are supported under local policy.



1 Policy Context

1.1 Live Music Action Plan.

The Live Music Action Plan 2021-2024 (LMAP) endorsed by Council seeks to preserve, support, and grow the live music industry in Port Phillip and delivers Strategic Outcome 5 of the *Art & Soul Creative and Prosperous City Strategy*.

The Live Music Action Plan seeks to support the wider ecosystem of live music and live music industries, of which the end-product of live music performance is just one part. It is generally agreed that this extends to include the businesses, infrastructure, tools, and patrons that support them, including music venues, nightclubs, orchestras, post-production facilities, radio stations, recording studios, sound design facilities, education bodies, music organisations, equipment hire, music entertainment, music publishing and music schools.

The designation of the St Kilda Live Music Precinct is one of many policy actions that seeks to respond to the social and economic impacts of the COVID-19 pandemic on the local music industry, and 'future-proof live music' in Port Phillip so that live music can flourish and grow within a robust live music 'ecosystem' (see Outcome 1 and 2 and its associated Goals and Actions of the LMAP).

1.2 What is Live Music and a Live Music Venue?

Within the LMAP, 'live music' is defined as '*a music performance being given by a person or people, using their voice and/or musical instruments*'. This includes busking, concerts, pub rock, classical recitals, musical theatre, opera, hip-hop, and more.

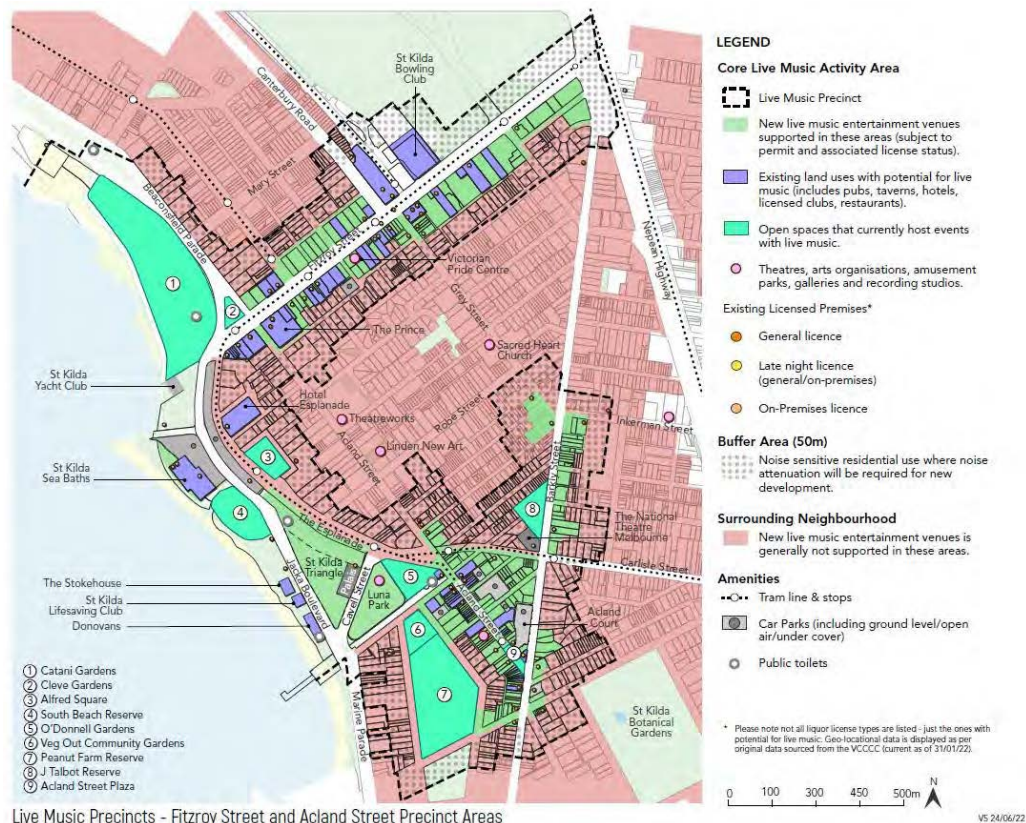
The term 'live music entertainment' is not defined in Clause 53.06.

The methodology employed by the Live Music Census infers that a 'music venue' is one which hosts live music acts (as distinct from recorded music), where performances of live music are given on a regular basis (minimum once a week). The Live Music Action Plan does not explicitly define what is considered a 'music venue' but appears broadly congruent with the above definition.

Music venues can be differentiated based on size/capacity, the frequency of live music performances, operational requirements, whether public or private, among other factors. Notwithstanding this, the implications of VCAT case law such as *QP99 Pty Ltd v Yarra CC [2018] VCAT 427* mean that the variability and infrequency of live music acts does not disqualify venues from being identified as a live music entertainment venue, as defined by Clause 53.06 Live Music Entertainment Venues.

The methodology adopted by the City of Port Phillip to identify all existing live music entertainment venues is different to that of the Live Music Census. Within the St Kilda Live Music Precinct preliminary study area, it identifies live music entertainment venues based on *all* licensed premises with the potential for live music entertainment (Restaurant and café licence, On-premises, Late night on-premises, Late night general, General, Full Club Licence) irrespective of whether infrequent and occasional live music acts occur (see **Map 1** below).

The suitability of including other venues (besides those listed in Clause 53.06-2) used for the performance of music is discussed in **Section 2** of this report.



Live Music Precincts - Fitzroy Street and Acland Street Precinct Areas

Map 1: St Kilda Live Music Precinct study area

1.3 Live Music in St Kilda – Past and Present

St Kilda has a rich entertainment past and continues to sport a reputation as a ‘music incubator of national significance’⁴. The suburb is home to many famous music venues such as the Earl’s Court, St Moritz, the Crystal Ballroom (aka The Ballroom), the Esplanade Hotel (The Espy), The Venue, the Bananas, and The Prince of Wales. In addition, St Kilda, along with other ‘music precinct’ areas such as Collingwood, Richmond, Brunswick, and Fitzroy have also become places of increasing gentrification.

The “Live Music in the City of Port Phillip 2019-2021” report prepared by Dobe Newton on behalf of the City of Port Phillip and Music Victoria drew on data from the Melbourne Live Music Census 2022. The Census focused on identifying major live music event (festival/concert) presentations in ‘large venues’ and recognises that ‘small venues’ such as bars, clubs and pubs generate most gigs, attendance, patron spending and employment⁵.

⁴ Live Music in the City of Port Phillip 2019-2021, Music Victoria, 2022, Page 4

⁵ Ibid. Page 7



Key findings of the Live Music in the City of Port Phillip 2019-2021 report showed:

- In the City of Port Phillip, there were a total of 55 'large' live music venues operating in 2019, and of these, 33 (60%) of the large music venues were in the suburb of St Kilda.
- In the City of Port Phillip, the number of liquor licences granted grew from 221 in 2019 to 254 in 2021. The liquor licences associated with live music such as full club, general, on-premises and on-premises (late night) generally did not show a 'notable decline' between 2019 and 2021 during the COVID-19 pandemic.

Separate analysis undertaken by City of Port Phillip of licensed premises in St Kilda shows that in 2022, there were 190 records of licenced premises, 29 of which have closed.

The distribution of different liquor licence categories is included below in **Figure 1**:

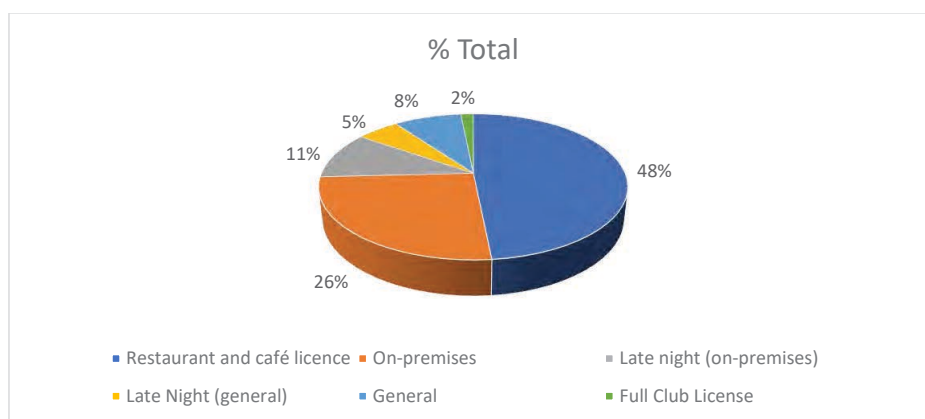


Figure 1: Breakdown of types of liquor licences granted in St Kilda (2022)

1.4 Physical and Policy Context of the St Kilda Live Music Precinct Study Area

The St Kilda Live Music Precinct study area includes several areas of local planning policy significance that includes existing and future potential for live music entertainment venues (LMEVs) or for the performance of live music as defined under Clause 53.06 Live Music Entertainment Venues. These include:

- the St Kilda Major Activity Centre (MAC),
- the Inkerman Street/Grey Street Local Activity Centre (LAC),
- the St Kilda Foreshore, and
- the Greeves Street Mixed Activities Precinct (MAP).

The study area consists of land uses associated with music (such as hospitality venues, places of assembly, galleries, theatres, arts organisations, places of worship, recording studios, public foreshore, and open space reserves) and land uses not associated with music (such as dwellings and shops) interspersed throughout in an eclectic, mixed fashion.

The St Kilda Foreshore, Fitzroy Street and Acland Street includes a high concentration of existing licensed premises and large music venues such as the Palais Theatre, the "Espy", and the St Kilda Sea

Baths. The Inkerman Street/Grey Street LAC and Greeves Street MAP contains a smaller number of licensed premises and non-residential uses with live music activity such as recording studios.

Land within the St Kilda Live Music Precinct study area is generally within the following zones:

- Commercial 1 Zone land in established retail strips and/or activity centre contexts where permanent live music venues are permitted to establish.
- Public Park and Recreation Zone (PPRZ) land containing public open spaces which are temporarily used for live music entertainment, including for music festivals and events.
- Residential zoned land (including the Mixed Use Zone) a distance of 50 metres from the edges of the Commercial 1 Zone which have existing or future potential the establishment of live music entertainment venues; and
- Existing live music venues including “non-conforming uses” in an unusual zoning context such as The Espy and National Theatre Melbourne.

Local and state-wide policy directions seek to increase intensity of residential and non-residential development in and around activity centres. Furthermore, state-wide policy directions seek to manage noise and the protection of community amenity and human health, as well as to encourage, create and protect opportunities to enjoy live music. Within this context, the performance of live music is just one source of noise among many noises in an activity centre that have the potential to adversely impact residential amenity.

The St Kilda Live Music Precinct study area includes several activity centres which comprise a complex and finely grained mixture of non-residential uses, including live music entertainment venues, interspersed with residential uses. Therefore, consideration of noise management in activity centres must consider noise generated by non-live music entertainment venue land uses as well.

1.5 Housing growth in the St Kilda Precinct

The Municipal Planning Strategy of the Port Phillip Planning Scheme notes that a 10 per cent population growth is forecast by 2031, predominantly in the St Kilda Road South Precinct which is located east of the St Kilda Live Music Precinct study area boundary.

The Port Phillip Housing Market and Capacity Analysis report prepared by Urban Enterprise (November 2022) provides an assessment of housing growth and capacity to inform preparation of a Housing Strategy for the City of Port Phillip.

The Urban Development Program shows that the location of completed major residential development for 2016-2020 is distributed as follows (see page 22, Figure 10):



Source: Urban Development Program, compiled by Urban Enterprise.

Figure 2 – Housing growth in St Kilda 2016-2020 (source – Urban Enterprise)

In terms of housing capacity, the Port Phillip Housing Market and Capacity Analysis report (Urban Enterprise, November 2022, page 62, table 29) found that:

- Land within the St Kilda MAC (Fitzroy Street and Acland Street) and within Local Activity Centres together make up 3% each of the total capacity for housing development.
- The balance areas of the St Kilda suburb make up only 5% of the total capacity for new housing.
- The largest areas of housing capacity in the City of Port Phillip are within the St Kilda Road North and St Kilda Road South precinct (combined 24%) and the Fishermans Bend precinct (44%).

The location of sites with dwelling capacity are shown in Figure 37 (page 63) of the Port Phillip Housing Market and Capacity Analysis report below:

F37. NET ADDITIONAL DWELLINGS – LOCATION AND SCALE OF CAPACITY BY PROPERTY

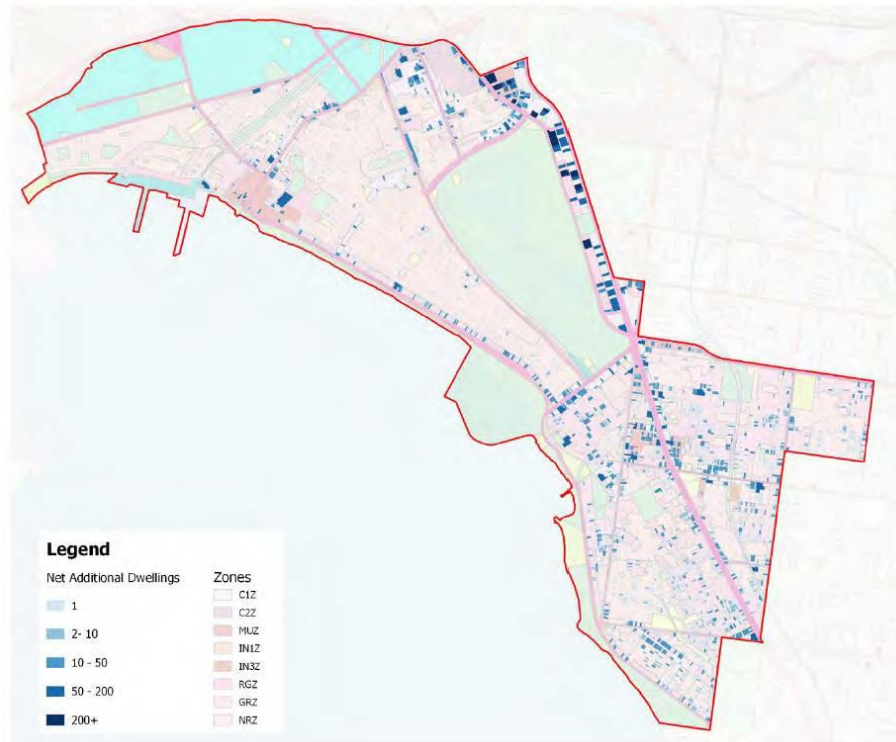


Figure 3 – Future housing capacity- whole of Port Phillip (source: Urban Enterprise)

1.6 Operation of Clause 53.06 Live Music Entertainment Venues

Clause 53.06 Live Music Entertainment Venues applies to an application required under any zone of the relevant scheme to use land for, or to construct a building or construct or carry out works associated with a live music entertainment venues (LMEVs), a noise sensitive residential use (NSRU) within 50 metres of a live music entertainment venue, or a noise sensitive residential use that is in an area specified in clause 1.0 of the schedule to this clause. Currently there is no area specified in clause 1.0 of the schedule to this clause in the Port Phillip Planning Scheme.

Clause 53.06 does not apply to extensions of an existing dwelling, or to a noise sensitive residential use in an area specified in clause 2.0 of the schedule to this clause. Currently there is no area specified in clause 2.0 of the schedule to this clause in the Port Phillip Planning Scheme.

Clause 53.06 outlines acoustic attenuation requirements for live music entertainment venues and noise sensitive residential uses. These acoustic attenuation requirements are different to that which is required for apartment developments, which consider noise sources from industry, rail, or road, as distinct from music noise generated by live music entertainment venues.



Clause 53.06 assigns the responsibility for acoustic attenuation to the ‘agent of change’, which is a new use or development that is introduced into an existing environment.

The agent of change may be:

- a new or existing live music venue seeking to establish or expand, or
- a new residential development close to an existing live music venue.

A ‘live music entertainment venue’ under Clause 53.06-2 Meaning of Terms means the following:

- *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.*

Currently there are no venues specified in clause 3.0 of the schedule to this clause in the Port Phillip Planning Scheme.

A ‘noise sensitive residential use’ under Clause 53.06-2 Meaning of Terms means the following:

- community care accommodation,
- dependent person’s unit,
- dwelling,
- residential aged care facility,
- residential village,
- retirement village or
- rooming house.

1.6 When is a planning permit required for a Live Music Entertainment Venue?

A planning permit is not required to use the land for a “live music entertainment venue”, as it is not a separately defined land use under the Planning Scheme.

Where required under the relevant zone or overlay, a planning permit may be required to use and/or develop the land for a Food and Drink Premise, a Nightclub, Function Centre, Residential Hotel, a Rehearsal Studio, or any other venue used for the performance of music that is specified in clause 3.0 of the schedule. Only such applications under a zone will trigger the application of Clause 53.06 Live Music Entertainment Venues.

A summary of the permit triggers for an application for land uses associated with and included within the meaning of a “live music entertainment venue”⁶ is included in **Appendix 1**.

1.7 When is a planning permit required for a Noise Sensitive Residential Use?

A planning permit may be required to use and/or develop the land for a Community Care

⁶ A live music entertainment venue is not a separate land use definition pursuant to Clause 73.03 Land Use Terms, but is taken to mean (pursuant to Clause 53.06-2), a food and drink premises, nightclub, function centre or residential hotel that includes live music entertainment, rehearsal studio (not defined in Clause 73.03 Land Use Terms), or any other venue used for the performance of music and specified in clause 3.0 of the schedule to Clause 53.06, subject to any specified condition or limitation.

Accommodation, Dependent Person's Unit, Dwelling, Residential Aged Care Facility, Residential Village, Retirement Village or Rooming House.

Only such applications under a zone will trigger the application of Clause 53.06 Live Music Entertainment Venues.

A summary of the permit triggers for an application for a noise sensitive residential use⁷ is included in **Appendix 1**.

⁷ A noise sensitive residential use is not a separate land use definition pursuant to Clause 73.03 Land Use Terms but is taken to mean (pursuant to Clause 53.06-2), a community care accommodation, dependent person's unit, dwelling, residential aged care facility, residential village, retirement village or rooming house.



2 Potential Categories of Live Music Venues

Live music entertainment take place in a variety of music venues which can be categorised based on:

- the frequency and regularity of use for live music performances;
- whether the venues are located on public or private land;
- whether the venue is a licensed premise;
- the capacity or scale of the venue;
- the zoning context of where venues are located; and
- the likely residential amenity impacts based on operational requirements.

Music entertainment including live music can be an ancillary activity of land uses defined under Clause 73.03 Land Use Terms such as bars, function centres, hotels, residential hotel, places of assembly and restaurants, and can be a defining characteristic of land uses such as Nightclubs (refer to Appendix 3 for excerpt of land use definitions).

The following categories of live music venues have been developed for the purposes of developing a proposition for the future planning of live music venues in St Kilda:

Category	Description	Includes	Permit requirement
1: Public Land – Occasional Live Music	Venues that are used for pop-up or occasional live music performances and located on public land.	<ul style="list-style-type: none"> - Music events or festivals on public land, such as public reserves, road and road reserves, and car parks where appropriately zoned. - Use of public land by adjoining private venues, such as alfresco dining. - Busking on public land. 	<ul style="list-style-type: none"> - No Planning Permit required when carried out by or on behalf of the public land manager (under the zone) and/or when it is authorised under a local law (see Clause 62.03). - Music events, alfresco dining and busking on public land is regulated by the Local Law.
2: Public and Community Venues – Occasional Live Music	Venues that are used occasionally for live music performances and located in public and community venues.	<ul style="list-style-type: none"> - Civic/public halls - Public and private galleries⁸ - Place of worship 	<ul style="list-style-type: none"> - Planning Permit is required for the use and/or development of a Place of Assembly or Place of Worship use pursuant to the C1Z, in the MUZ, and in the case of certain nested land uses, within the GRZ and NRZ.

⁸ Occasional live music performances can be used for gallery exhibition openings.

3: Private Venues - Regular Live Music, Low noise impact	Permanent venues in private ownership and operation that generate low amenity impacts in terms of noise emissions due to their size and operational characteristics.	<ul style="list-style-type: none"> - Rehearsal studios⁹ - Recording studios - Private art galleries - Food and drink premises (no liquor licence) 	<ul style="list-style-type: none"> - Planning Permit required for the use and/or development of a Food and Drink Premise pursuant to the MUZ if exceeding a leasable floor area of 150 sqm, and within the GRZ and NRZ. - Planning Permit is not required to use the land for a Food and Drink Premise (nested under Retail Premise) under the C1Z. - Planning Permit required for the use and/or development of a Place of Assembly pursuant to the C1Z, in the MUZ, and in the case of certain nested land uses, within the GRZ and NRZ.
4: Private Venues – Regular Live Music, Medium noise impact	Permanent venues in private ownership and operation that generate medium amenity impacts in terms of noise emissions due to their size and operational characteristics.	<ul style="list-style-type: none"> - Rehearsal studios¹⁰ - Food and drink premises (licensed) - Residential hotel/Hotel. - Arts organisations. - Theatres. 	<ul style="list-style-type: none"> - Planning Permit required for the use and/or development of a Food and Drink Premise pursuant to the MUZ if exceeding a leasable floor area of 150 sqm, and within the GRZ and NRZ. - Planning Permit is not required to use the land for a Food and Drink Premise (nested under Retail Premise) under the C1Z. - Planning Permit required for the use and/or development of a Place of Assembly pursuant to the C1Z, in the MUZ, and in the case of certain nested land uses, within the GRZ and NRZ.

⁹ Rehearsal studios can have either a low or medium noise impact depending on their design and operation, and their proximity to noise sensitive uses.

¹⁰ Ibid.



			<ul style="list-style-type: none"> - Planning Permit required to establish a Place of Assembly in a C1Z and residential zones, except noting that Nightclubs are prohibited in a GRZ and NRZ.
5: Private Venues – Regular Live Music, High noise impact	Permanent venues in private ownership and operation that generate high amenity impacts in terms of noise emissions due to their size and operational characteristics.	<ul style="list-style-type: none"> - Nightclubs - Function centres - Place of Assembly - Place of worship - Amusement parks. 	Planning Permit required for the use and/or development of a Place of Assembly pursuant to the C1Z, in the MUZ, and in the case of certain nested land uses, within the GRZ and NRZ.

3 Review of the St Kilda Live Music Precinct study area and sub-precincts

Existing and potential music venues in the proposed St Kilda Live Music Precinct

There are a range of activities located within the St Kilda Live Music Precinct study area which generate (or have the potential to) noise impacts on nearby sensitive uses, such as transport (trams and road traffic noise), people in public spaces, waste collection, retail and commercial uses including live music venues and licensed premises (including bars, cafes, restaurants, and nightclubs).

The noise associated with these uses can be generated from a range of activities and is not solely related the performance of live music. Other sources of noise from such premises includes pre-recorded music, deliveries, waste collection, and patron movements to and from such premises.

A review of Council noise complaint data also confirms (unsurprisingly) that noise complaints have significantly decreased during the COVID-19 pandemic period but has started to increase to pre-pandemic levels more recently (see **Figure 2** below). However, the content of the currently available noise complaints data make it is difficult to ascertain the proportion of noise complaints that are related to live music, or to noise more generally.

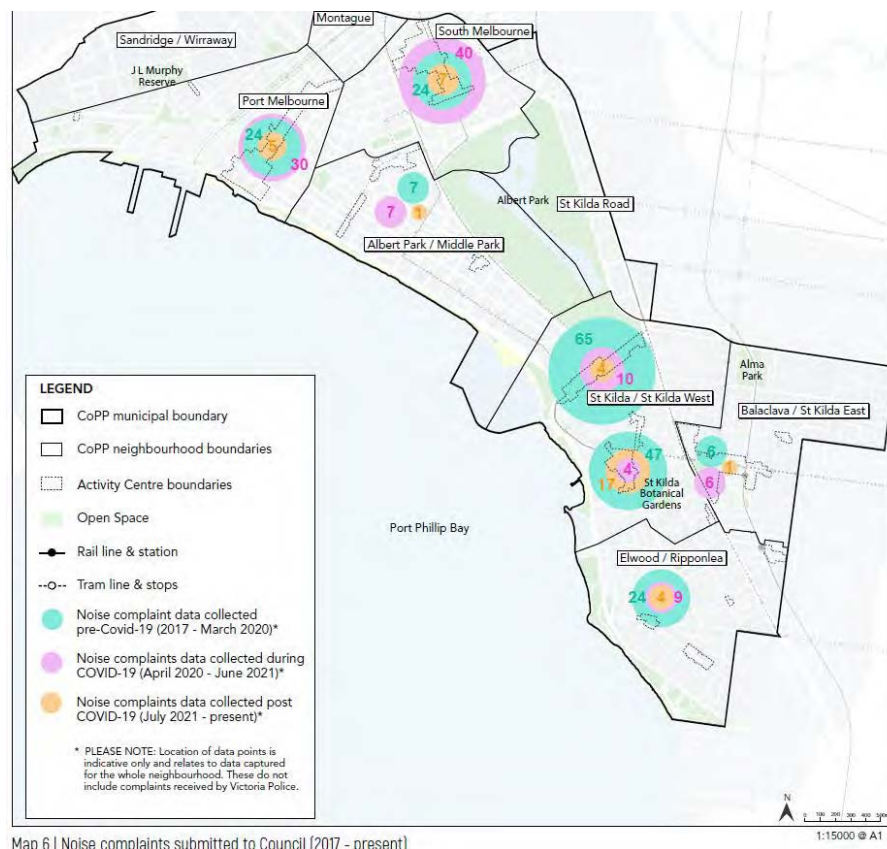


Figure 4: Noise Complaints submitted to City of Port Phillip (2017-present)



The agent of change principle is a useful tool for the future assessment of new live music venues and noise sensitive uses across the St Kilda Live Music Precinct study area.

As shown in **Figure 5**, residential uses already exist across the entirety of the St Kilda Live Music Precinct, and so it will also be the case that existing live music venues will continue to have to responsibly manage the impact of live music noise on existing residents near them.

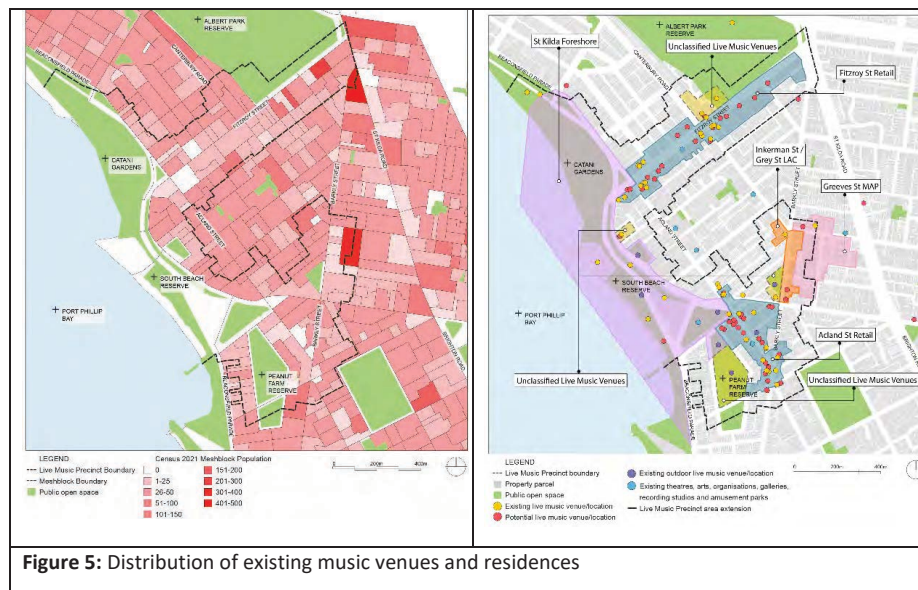


Figure 5: Distribution of existing music venues and residences

Case for sub-precincts

The pattern of existing and preferred future land uses is not uniform across the St Kilda Live Music Precinct study area, and there are some locations where the performance of live music is relatively more compatible with how they currently or could function, including co-existence with other noise sensitive uses. For example, existing live music venues and places with future potential for the performance of live music (e.g., including pubs, taverns, hotels, licensed clubs, and restaurants) are predominantly concentrated in the St Kilda Foreshore area and the St Kilda MAC.

The Inkerman Street/Grey Street LAC and Greeves Street MAP currently have a lower concentration of existing live music venues. However, under the current zoning that applies to these locations (i.e., C1Z and MUZ), it is possible to seek permission to use land for live music-related purposes. Live music venues in these areas would need to be those that generate low noise impacts due to the physical/spatial characteristics of these areas and their proximity to existing and future noise sensitive residential uses.

The EPA's Publication 1826.4 (Noise Protocol) outlines different noise standards which apply to noise generated from commercial and industrial premises based on zoning. However, the noise limits and noise assessment protocol which apply to music noise do not vary depending on location or zoning.

The following sub-precincts have been identified in recognition of the different existing and 'preferred future' land use settings of different parts of the St Kilda Live Music Precinct Study Area:

	Description	Rationale
Area 1: St Kilda Major Activity Centre (MAC)	The Commercial 1 Zoned area of the St Kilda MAC, specifically the core retail area along Fitzroy Street between Princes and Acland Streets, and Acland Street.	This area is already established as significant entertainment, leisure, and tourism destinations, and local policy supports this ongoing role. These areas have a long history of live music performances and venues, and they are important cultural assets that contribute to the vibrancy and character of the precinct. The inclusion of more live music venues in these areas would help to reinforce their identity as key destinations for music and entertainment, while also supporting local businesses and providing employment opportunities. Residential development including apartments are interspersed throughout the core retail and surrounding residential hinterland.
Area 2: Inkerman/Grey Street Local Activity Centre (LAC)	The Commercial 1 Zoned area of Inkerman Street/Grey Street Local Activity Centre	Local policy for this location supports it playing a convenience retail goods and services role for the local neighbourhood. Live music venues that have a low noise impact can help to support local businesses and attract visitors to the area, while also providing a unique and engaging entertainment option for residents and visitors alike. The inclusion of live music venues in this area would help to reinforce its identity as a



		<p>thriving local centre that meets the needs of the surrounding community.</p> <p>Residential development including home based businesses, medium density apartments, are interspersed throughout the core commercial zone area and surrounding residential hinterland.</p>
Area 3: St Kilda Foreshore	The St Kilda Foreshore area defined in Clause 22.10 of the Port Phillip Planning Scheme, including the St Kilda Triangle site.	This area is identified in local policy as a key leisure and entertainment precinct, and it has the potential to become a hub focused on the arts, entertainment, and leisure. The St Kilda Triangle site has a history of hosting music and cultural events, and its renewal presents an opportunity to create a world-class cultural and entertainment precinct. The inclusion of live music entertainment venues in this area would contribute to the diverse character of the precinct, while also providing opportunities for local businesses and artists.
Area 4: Unclassified live music venues and additional Public Open Space venues	<p>Other live music venues and Public Open Spaces outside of but close to Areas 1-3 in various zones including:</p> <ul style="list-style-type: none"> - The old St Kilda Station redevelopment. - National Theatre Melbourne. - St Kilda Bowling Club. - The "Epsy" Esplanade Hotel. - Peanut Farm Reserve and J Talbot Reserve which do not currently host events with live music (Public Open Space #7 and #8 on Map 1 respectively). 	<p>Including existing live music venues help to preserve and support these important cultural institutions.</p> <p>Including additional public open spaces within St Kilda Live Music Precinct creates more opportunities for outdoor music events and festivals, as well as enhance the cultural vibrancy of the area.</p>
Area 5: Greeves Street Mixed Activity Precinct (MAP)	Mixed Use Zone (MUZ) area of the Greeves Street MAP	Local policy for this precinct encourages redevelopment of the area to transition to predominantly residential uses, while supporting office and compatible light industrial/warehouse uses in the precinct where they do not negatively

		impact on the primary residential function of the area. If the proposed live music entertainment venues can demonstrate that it can operate in a manner that does not undermine or negatively impact on the primary residential function of the area, then it could potentially be considered as a compatible land use within the precinct.
--	--	---



Potential revised boundary of the potential St Kilda Live Music Precinct

The St Kilda Live Music Precinct Study Area boundary can be defined by reference to a 50-metre buffer from Precinct 1-4 (extending to the cadastre boundaries of adjacent allotments), and additionally incorporating the boundary of Area 5 (without a 50-metre buffer).

This would ensure that all areas which can potentially play a role in supporting live music within St Kilda are included within the precinct boundary, as well as ensuring that areas close to these sub-precinct where noise sensitive uses are permitted are also included, so as to ensure that new noise sensitive residential uses address the 'agent of clause' principle under Clause 53.06 (see **Section 4** below on the use of the schedule to Clause 53.06).

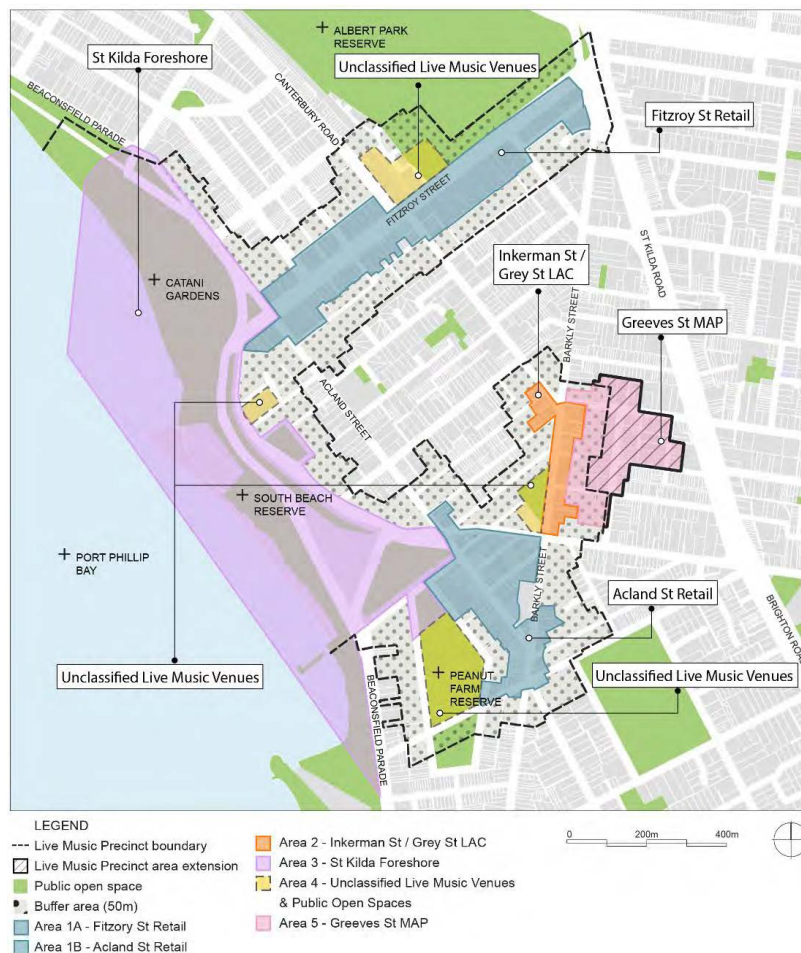


Figure 6 – Potential expansion of live music precinct.

4 Options for Port Phillip Planning Scheme to better protect and support live music in St Kilda

The primary state planning tool to guide the management of live music entertainment venues and nearby noise sensitive residential uses are as follows:

- Clause 13.05-1S (Noise Management)
- Clause 13.07-1S (Land Use Compatibility)
- Clause 13.07-3S (Live Music)
- Clause 53.06 (Live Music Entertainment Venues)

There is scope to customise the management of live music entertainment venues and noise sensitive residential uses via the schedule to Clause 53.06 which allows Councils to:

- Specify wider areas (i.e., a precinct) to which Clause 53.06 applies (clause 1.0),
- Specify areas where Clause 53.05 does not apply, based on alternative noise standards applying to such areas (clause 2.0), and;
- Expand the definition of a live music entertainment venue to apply to a wider range of venue types or locations (clause 3.0).

Council can also prepare local planning policies to provide clearer guidance on the exercise of discretion in relation to live music entertainment venues and nearby noise sensitive residential areas.

Design Development Overlays (DDO) can also potentially be used to specify alternative acoustic attenuation requirements.

In the case of activity centres, Council could apply the Activity Centre Zone and include within it customised alternative acoustic attenuation requirements.¹¹

It would typically be expected that local policies and controls would be applied in combination. Whatever combination of policies and controls are proposed, it would be necessary to demonstrate that new local policies and customised planning controls are needed (i.e., over and above the existing state policies and default provisions of Clause 53.06) to achieve the desired land use and development outcomes for the location.

Planning propositions:

Several planning propositions have been developed as potential means to protect existing and future live music venues within the St Kilda Live Music Precinct study area. These propositions have been developed based on the analysis of the policy, regulatory, land use and development context of the St Kilda precinct set out in the Noise Analysis prepared by Enfield Acoustics and the Planning Technical Report prepared by Echelon Planning.

The following propositions have been developed for the purpose of scoping a potential future approach to protecting existing and future live music venues within the St Kilda Live Music Precinct study area.

¹¹ Land within the St Kilda precinct currently comprises a mix of more conventional land use zones and we are not aware of any proposal to introduce the ACZ across this precinct.



However, further information and analysis is needed regarding existing live music entertainment venues and noise sensitive residential uses within the St Kilda Live Music Precinct study area to establish a more definitive evidence base for recommending changes to the Port Phillip Planning Scheme.

Each of the proposition set out below present opportunities as well as practical constraints that will require further consideration and analysis before they could be sufficiently justified as an amendment to the Port Phillip Planning Scheme. These are discussed further in the body of this report.

Proposition 1: Using clause 1.0 of the schedule to Clause 53.06

Draft Proposition 1: Use clause 1.0 of the schedule to Clause 53.06 to designate the proposed St Kilda Live Music Precinct study area, including the Greeves Street MAP (Area 5) as an additional sub-precinct, as an area where Clause 53.06 applies. This would require all applications under the zone for a new noise sensitive residential use to respond to the requirements of this clause.

Clause 1.0 of the schedule to this clause can be used to specify a Live Music Precinct wherein all noise sensitive residential uses within the precinct must meet the requirements of Clause 53.06-3 regardless of whether the site for the noise sensitive residential use is within 50 metres of an existing live music entertainment venue or not.

Pros:

The benefits of using clause 1.0 of the schedule to Clause 53.06 is that:

- The 'agent of change' principle is extended to an area, rather than just to noise sensitive residential uses within 50m of an existing live music entertainment venue.
- Applying Clause 53.06 to the St Kilda Live Music Precinct study area can potentially ensure that noise sensitive residential uses beyond 50 metres are attenuated against noise from live music venues, if the relevant noise assessment demonstrate that this is necessary.

Cons:

The disbenefits and limitations of using clause 1.0 of the schedule to Clause 53.06 is that:

- As the provision is currently drafted, Clause 53.06 would not 'future proof' the potential for other sites across the precinct to be readily used as a live music entertainment venue in the future by requiring noise sensitive residential uses to attenuate to a level that presupposes land within 50 metres *would* be used for a live music entertainment venue.
- Based on stakeholder interviews with the Department of Transport and Planning (DTP), applying Clause 53.06 to all land within the St Kilda Live Music Precinct would only require the noise sensitive residential use to include attenuation measures that will reduce noise levels from any *existing* live music entertainment venues¹².
- At a minimum, applying Clause 53.06 to all land within the St Kilda Live Music Precinct would have the effect of requiring a new noise sensitive residential use within the Live Music Precinct to consider, at the time that an application is lodged, whether there are existing live music

¹² This interpretation would appear at odds with the stated purpose of Clause 53.06 to "encourage the retention of existing and the development of new live music entertainment venues".

entertainment venues in close proximity that the agent of change principle would apply to, and require the new noise sensitive residential use to respond to accordingly.

Further work required:

It will be necessary to demonstrate that applying this clause to all land within the St Kilda Live Music Precinct study area is warranted, given the additional regulatory burden on noise sensitive residential use proponents that such a requirement creates.

Furthermore, case law such as *QP99 Pty Ltd v Yarra CC [2018] VCAT 427* have great implications on identifying a live music entertainment venue, as this will include venues that may have hosted live music in the past or infrequently do so.

- The list of existing live music entertainment venues along with frequency (including historic frequency) of live music acts and performances should be verified, documented, and mapped, noting that a potentially greater number of venues should be regarded as “live music entertainment venues”, including all pubs, restaurants and other food and drink premises.
- Explore the development of an internal or publicly accessible map of live music venues in the St Kilda Live Music Precinct study area with information regarding hours of operation and frequency of live music (or a link to a non-static information source such as a website).
- Undertake further verification, documentation, and mapping of existing and potential live music entertainment venues within the St Kilda Live Music Precinct study area, including consideration of the frequency (including historic frequency) of live music acts and performances.



Proposition 2: Using clause 2.0 of the schedule to Clause 53.06 and using a Design and Development Overlay (DDO) to set an alternative acoustic attenuation standard

Draft Proposition 2: Undertake further investigation into the merit of applying an alternative acoustic attenuation standard to noise sensitive residential uses within the St Kilda Live Music Precinct (in the form of a base noise insulation level that must be met at the boundary of any proposed future noise sensitive residential uses), in combination with advocacy to State Government for changes to the Environment Protection regulations to facilitate this outcome.

Clause 2.0 of the schedule to this clause can also be used to designate areas where a noise sensitive residential use and a live music entertainment venue is not required to comply with the requirements of Clause 53.06 (pursuant to Clause 53.06-3). Planning Practice Note (PPN81) notes this may be appropriate where alternative noise control requirements are already in place for a noise sensitive residential use through the planning scheme or Part 5.3, Division 4 of the *Environment Protection Regulations 2021* which regulates unreasonable and aggravated noise from entertainment venues and outdoor entertainment events.

Currently, the only location where an alternative noise requirement is established under the abovementioned EPA regulations is in Docklands, where the Melbourne Planning Scheme's Design and Development Overlay Schedule 12 (DDO-12) sets an alternative noise standard to allow for the ongoing use of Docklands Stadium for concerts. Stakeholder interviews with DTP officers indicated that there is unlikely to be other situations where this approach this may be justifiable.

An 'alternative acoustic attenuation standard' could potentially take the form of a base facade noise insulation level that must be met at the boundary of any proposed future noise sensitive use. This could be given effect in the St Kilda Live Music Precinct via a planning policy and/or control (such as a DDO) within the Port Phillip Planning Scheme.

Pros:

The benefits of using clause 2.0 of the schedule to Clause 53.06 and using a Design and Development Overlay (DDO) to set an alternative acoustic attenuation standard would include:

- Future proofing locations within the St Kilda Live Music Precinct study area as sites where potential live music entertainment venues may establish.
- Improving the internal amenity standards of dwellings in activity centres where there are many other sources of noise besides live music.
- Improving the function of activity centres by ensuring dwellings are constructed to internal amenity standards that minimise impacts from a wide range of potential noise source, including live music.
- Simplifying the acoustic assessment process and remove the requirement for individual acoustic assessments and attenuation requirements for new noise sensitive residential uses.
- Potentially help guide retrofitting of existing dwellings within the Live Music Precinct.

Cons:

The limitations of using clause 2.0 of the schedule to Clause 53.06 and using a Design and Development Overlay (DDO) to set an alternative acoustic attenuation standard would include:

- Introducing an alternative acoustic attenuation standard via a DDO at the boundary of new noise sensitive residential uses does not override the General Environmental Duty (GED) requirements that apply across the State under the current Environment Protection legislation for music venues. That is, both existing and future live music entertainment venues would still need to satisfy the GED. If Clause 53.06 applies, then future live music entertainment venues still need to satisfy the requirements to “*minimise noise emissions from the premise and provide acoustic attenuation that would protect a noise sensitive residential use within 50 metres of the venue*”.
- Achieving this type of alternative acoustic attenuation standard may impose substantial additional cost on new residential development. Additional analysis of any proposed alternative acoustic attenuation standard would need to demonstrate its practicality, cost, and benefits (this is not within the scope of this Planning Study to undertake).
- The wider socio-economic benefits of any alternative acoustic attenuation standard would need to be clearly established to justify the cost of implementing such a measure, which is outside the scope of this planning study.

Further work:

Further research and analysis are suggested in relation to the following:

- Whether live music noise breaches occur beyond 50 metres from the music venue within the precinct (for example, by reference to noise complaints and sound measurement data).
- Whether the live music noise impacts occur in a scenario where both the residential building (complainant) and music venue were designed to comply with the requirements of Clause 53.06 Live Music Entertainment Venues (i.e., demonstrating that Clause 53.06 Live Music Entertainment Venues when properly applied is unable to achieve the stated objectives).
- Analysis of the cost and benefits of an alternative acoustic attenuation standard to justify the cost of implementing such a measure.



Proposition 3: Using clause 3.0 of the schedule to Clause 53.06

Draft Proposition 3A: Use clause 3.0 of the schedule to Clause 53.06 to expand the definition of a 'live music entertainment venue' to apply to the following venues used for frequent live music performances and live music activities:

Venue	Location/Address	Type of land use	Rationale
Theatreworks	14 Acland Street, St Leonards Ave, St Kilda VIC 3182	Theatre	Frequently used for live music performances.
Allan Eaton Studios	80 Inkerman Street, St Kilda VIC 3182	Recording studio	Recording studios can be used for rehearsal studio purposes as well ¹³ .
National Theatre Melbourne	20 Carlisle St, (Cnr Barkly St) St Kilda VIC 3182	Theatre	Frequently used for live music performances.
Catani Gardens		Public open space	Used to host live music acts (6 music events per year) and should be considered an outdoor live music entertainment venue.
Cleve Gardens		Public open space	
Alfred Square		Public open space	
South Beach Reserve		Public open space	
O'Donnell Gardens		Public open space	
Veg Out Community Gardens		Public open space	

Draft Proposition 3B: Use clause 3.0 of the schedule to Clause 53.06 to apply to the following music venues currently used for infrequent live music events.

Venue	Location/Address	Type of land use	Rationale
Linden New Arts	26 Acland Street, St Kilda	Gallery	Occasional live music performances.
Sacred Heart Church	83 Grey Street, St Kilda	Place of Worship	Occasional live music performances associated with a place of worship.

¹³ See *ARA Builders and Developers Pty Ltd v Moreland CC* [2014] VCAT 1306 paragraph 54 to 56.

Clause 3.0 of the schedule to Clause 53.06 (which may or may not be within a designated live music precinct under Clause 1.0 of the schedule to Clause 53.06) allows other venues used for the performance of music, such as public halls, theatres, arts organisations, amusement parks, galleries and recording studios to be included in the definition of a live music entertainment venue, subject to any specified condition or limitation.

Some examples of conditions or limitations could include allowable times for live music performances, allowable noise levels at property boundaries, restrictions on the scale of venue or type of music, or conditions that such activities must be undertaken “in accordance with approved live music noise management plan”.

Pros:

The benefit of using clause 3.0 of the schedule to Clause 53.06 include:

- Discrete and significant cultural live music venues can be listed and afforded protection from inappropriate residential development through applying the ‘agent of change’ principle to it.

Cons:

The limitations of using clause 3.0 of the schedule to Clause 53.06 include:

- Triggering the requirement to attenuate noise in accordance with Clause 53.06-3 should the venue seek to expand its operations in future (i.e., when an application to use or develop the land associated with the existing land use under the zone is required) when the venue previously may not be required to (due to not fitting the definition of a ‘live music entertainment venue’ under Clause 53.06).
- The addition of new live music venues into this Schedule is a time-consuming process of amending the planning scheme. Note: A simpler means could be to designate additional categories of venues proposed within the potential St Kilda Live Music Precinct.
- The inclusion of venues which have infrequent music events (less than 6 times per year) such as public open spaces and art galleries within the definition of a live music entertainment venue using clause 3.0 of the schedule to Clause 53.06 may raise practical challenges for new proponents of noise sensitive residential uses that must measure noise from the music events occurring at an outdoor live music entertainment venue¹⁴. A non-planning recommendation to address the practical challenge of measuring noise may be the development and update of a publicly accessible map of live music venues in the St Kilda Live Music Precinct with information regarding hours of operation and frequency of live music (or a link to a non-static information source such as a website).

¹⁴ Regardless of this, the noise from music venues and music events is regulated by the applicable Local Law (if on public land) and Environment Protection regulations. The General Environmental Duty (GED) applies, and the responsibility to manage noise remains with the music venue or music event operators.



Proposition 4: Using Local Planning Policies

Draft Proposition 4A: Update the Local Planning Policy Framework to identify the St Kilda Live Music Precinct, prioritise the establishment of live music entertainment venues within the precinct and require the application of the 'agent of change' principle.

The following changes to local policy on the St Kilda Live Music Precinct (and live music entertainment venues and noise sensitive residential uses within the precinct) should be considered:

- The term 'live music entertainment' should be defined in local policy.
- The spatial extent of the St Kilda Live Music Precinct should be identified in local policy.
- The 'agent of change' principle should be expressed in local policy, to make it clear that it is the responsibility of the agent to change to address any noise impacts associated with locating live music entertainment venues and noise sensitive residential uses in proximity to each other within the St Kilda Live Music Precinct.
- New local policy should be included to overtly support existing and future live music entertainment venues within the precinct (i.e., distinguishing live music entertainment venues from other types of entertainment venues).
- Sub-precincts should be identified, along with policies which identify the types of live music.
- entertainment venues that are supported within each area.

New local policy would need to be prepared to provide guidance on how new noise sensitive residential uses within the St Kilda Live Music Precinct should be sited/designed to protect them from the impact of music noise from both current and potential future live music venues¹⁵.

The following clauses would require updating:

- Municipal Planning Strategy (MPS) (Clause 02)
- Local strategies for management of music noise (Clause 13.05-1L).
- Defining sub-precinct areas where certain categories of live music entertainment venues are encouraged to locate (Clause 13.07-3L).
- Defining the live music precinct and measures which apply to ensure live music venues can co-exist with nearby residential and other noise sensitive land uses, including in sub-precincts (Clause 13.07-3L).
- Live music as a priority activity and the application of the 'agent of change' principle within activity centres (Clause 11.03-1L).

¹⁵ The application of this requirement could be limited to noise sensitive residential uses within those sub-precincts where all forms of live music entertainment venue are supported under local policy.

Using Local Planning Policies to define 'live music entertainment'

Draft Proposition 4B: Clarify the definition of 'live music entertainment' in the negative, i.e., 'live music entertainment excludes amplified pre-recorded music'.

Clause 13.07-3L can also be used to define "Live Music Entertainment".

As discussed with DTP officers, the benefits of defining 'live music entertainment' provides scope to clarify that the 'agent of change' principle does not apply to venues which play pre-recorded amplified music (which is a source of most noise complaints).

However, the dangers of defining 'live music entertainment' (rather than adopting its ordinary Dictionary definition) in too prescriptive a manner may restrict the scope of interpretation, considering the evolving nature of live music and entertainment.



5 Matrix of Live Music Venue Categories and Sub-Precincts

A simple matrix has been developed that summarises the preliminary planning propositions identified in this report, and the application of live music venue categories to associated sub-precincts.

It is suggested that this matrix be further reviewed to assist in development of any communication tools to existing and new music venue operators and noise sensitive residential use proponents.

	Category of Live Music Venues				
	Category 1: Public Land – Occasional Live Music	Category 2: Public and Community Venues – Occasional	Category 3: Private Venues – Regular Live Music, Low	Category 4: Private Venues – Regular Live Music,	Category 5: Private Venues – Regular Live Music, High
Area 1: St Kilda Major Activity Centre (MAC)	✓	✓	✓	✓	✓
Area 2: Inkerman/Grey Street Local Activity Centre (LAC)	✓	✓	✓		
Area 3: St Kilda Foreshore	✓	✓	✓	✓	✓
Area 4: Unclassified live music venues and additional Public Open Space venues	✓	✓	✓		
Area 5: Greeves Street Mixed Activity Precinct (MAP)	✓	✓	✓		

6 Scenario testing the Planning Proposition

A framework has been developed for scenario testing the preliminary planning propositions identified in this report. It is suggested that this framework be reviewed following the further work to assist in development of any communication tools to existing and new music venue operators and noise sensitive residential use proponents.

	I am a....	Seeking to	What happens to me under...	
<i>Example Venue</i>	<i>Scenarios</i>	<i>Action</i>	<i>Existing Planning Framework</i>	<i>Proposed Proposition</i>
Espy	Existing live music entertainment venue with existing use rights (i.e., a non-conforming use)	Extend		
The Prince	Existing venue with live music entertainment established prior to introduction of Clause 53.06 (previously Clause 52.43)	Extend		
South Beach Reserve	Existing live music entertainment venue which is not currently defined as a live music entertainment venue under Clause 53.06	Be listed in clause 3.0 of the schedule to Clause 53.06 to become a live music entertainment venue under Clause 53.06		
	Existing live music entertainment venue which is as-of-right was not hosting live music acts before the	Include live music entertainment		



	introduction of Clause 53.06/52.43			
	Existing live music entertainment venue which has been listed in clause 3.0 of the schedule of Clause 53.06 to become a live music entertainment venue under Clause 53.06	Extend		
	Existing noise sensitive residential use with existing use rights	Extend		
	Existing noise sensitive residential use established prior to Clause 53.06	Extend		
	Existing noise sensitive residential use which is within the Live Music Precinct but not within 50 metres of an existing live music entertainment venue	Extend		

	New noise sensitive residential use establishing within the Live Music Precinct	Attenuate		
	New noise sensitive residential use establishing within 50 metres of an existing live music entertainment venue.	Attenuate		



Appendices

Appendix 1 Analysis of Permit Triggers by Zone for Land Use

Noise Sensitive Residential Uses and its associated land use definitions

Nesting	Accommodation						
Land Use Term	Community care accommodation	Dependent Persons Unit (DPU)	Dwelling	Residential aged care	Residential village	Retirement village	Rooming house
Commercial 1 Zone (Note: A planning permit is required for all buildings and works except minor building works)	Planning permit required	No planning permit required	No planning permit required	No planning permit required	No planning permit required	No planning permit required	No Planning permit required – if ground floor frontage <2m
General Residential Zone and Neighbourhood Residential Zone (Note: A planning permit is required for buildings and works associated with a Section 2 Permit Required land use)	No planning permit required – if meet Clause 52.22-2	No PP Req – if it is the only DPU	No planning permit required	No planning permit required	Planning permit required	Planning permit required	No Planning permit required – if meet Clause 52.23-2
Mixed Use Zone (Note: A planning permit is required for buildings and works associated with a Section 2 Permit Required land use)	No planning permit required – if meet Clause 52.22-2	No PP Req – if it is the only DPU	No planning permit required	No planning permit required	Planning permit required	Planning permit required	No Planning permit required – if meet Clause 52.23-2

Live Music Entertainment Venues and its associated land use definitions

Nesting	Retail Premise	Place of Assembly			Accommodation
Land Use Term	Food and drink premise	Nightclub	Function centre	Rehearsal studio	Residential Hotel
Commercial 1 Zone (Note: A planning permit is required for all buildings and works excluding internal alterations and limited minor building works)	No planning permit required	Planning permit required	Planning permit required	Planning permit required	No planning permit required
General Residential Zone and Neighbourhood Residential Zone	Planning permit required	Prohibited	Planning permit required	Planning permit required	Planning permit required

(Note: A planning permit is required for buildings and works associated with a Section 2 Permit Required land use)					
Mixed Use Zone (Note: A planning permit is required for buildings and works associated with a Section 2 Permit Required land use)	No Planning permit required – if leasable floor area <150sqm	Planning permit required	Planning permit required	No Planning permit required – if less than 250sqm	Planning permit required

Permit triggers in Public Zones

Land Use Term	Noise sensitive residential use	Live Music Entertainment Venue
Public Use Zone 6 (Car Parks – Local Government)	Planning permit required – use must be carried out by or on behalf of the public land manager, and if not for the purpose of local government.	
Public Park and Recreation Zone	Planning permit required- Must be a use conducted by or on behalf of a public land manager, Parks Victoria or the Great Ocean Road Coast and Parks Authority or a use specified in an Incorporated Document.	

Permit triggers in Special Zones

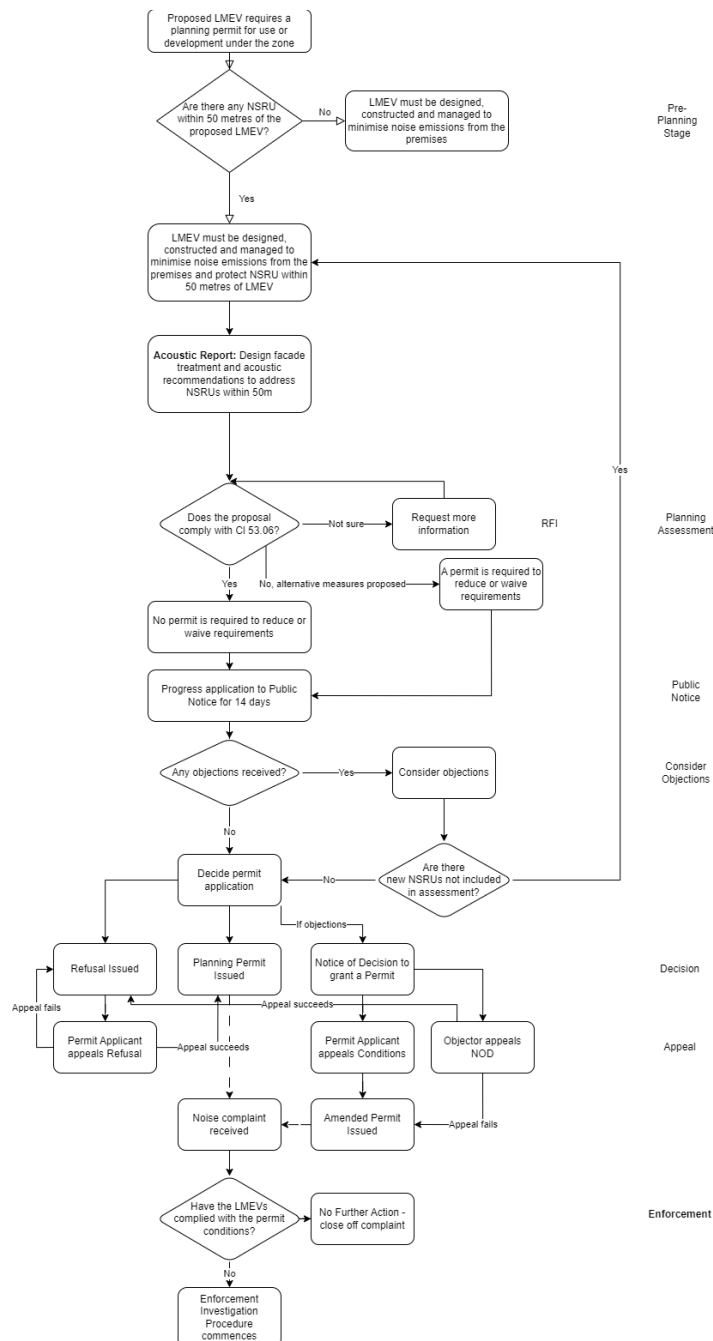
	Live Music Entertainment Venue					Noise sensitive residential use						
Nesting	Retail Premise	Place of Assembly			Accommodation	Accommodation						
Land Use Term	Food and drink premise	Nightclub	Function centre	Rehearsal Studio	Residential Hotel	Community care accommodation	DPU	Dwelling	Residential aged care	Residential village	Retirement village	Rooming house
CD23 (Acland Courtyard)	No planning permit required – if Restaurant max 200 seats only	Planning Permit required	Planning Permit required	No PP Req – if above ground floor	Planning Permit required	Planning Permit required	Planning Permit required	No Planning Permit required	Planning Permit required	Planning Permit required	Planning Permit required	Planning Permit required
SUZ3 (St Kilda Triangle) –see approved Development Plan	No Planning Permit required – if Restaurant	No Planning Permit required	No Planning Permit required	Planning Permit required	Planning Permit required	Planning Permit required	Planning Permit required	Prohibited	Planning Permit required	Planning Permit required	Planning Permit required	Planning Permit required
SUZ2 (Luna Park)	Must be ancillary to Amusement Park – see incorporated Document.			Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
SUZ2 (St Kilda Sea Baths)	Incorporated Document allows a health and fitness centre incorporating heated sea baths as a primary activity, swimming pools...including drinking and eating areas including liquor, takeaway food facilities, entertainment, tourist, special events, car park. Relevant conditions include: Uses shall operate between 5:30am and 1am, subject to the Responsible Authority providing an extension in writing. Noise level emanating must be restricted to the relevant SEPP N1 and N2 or relevant.											

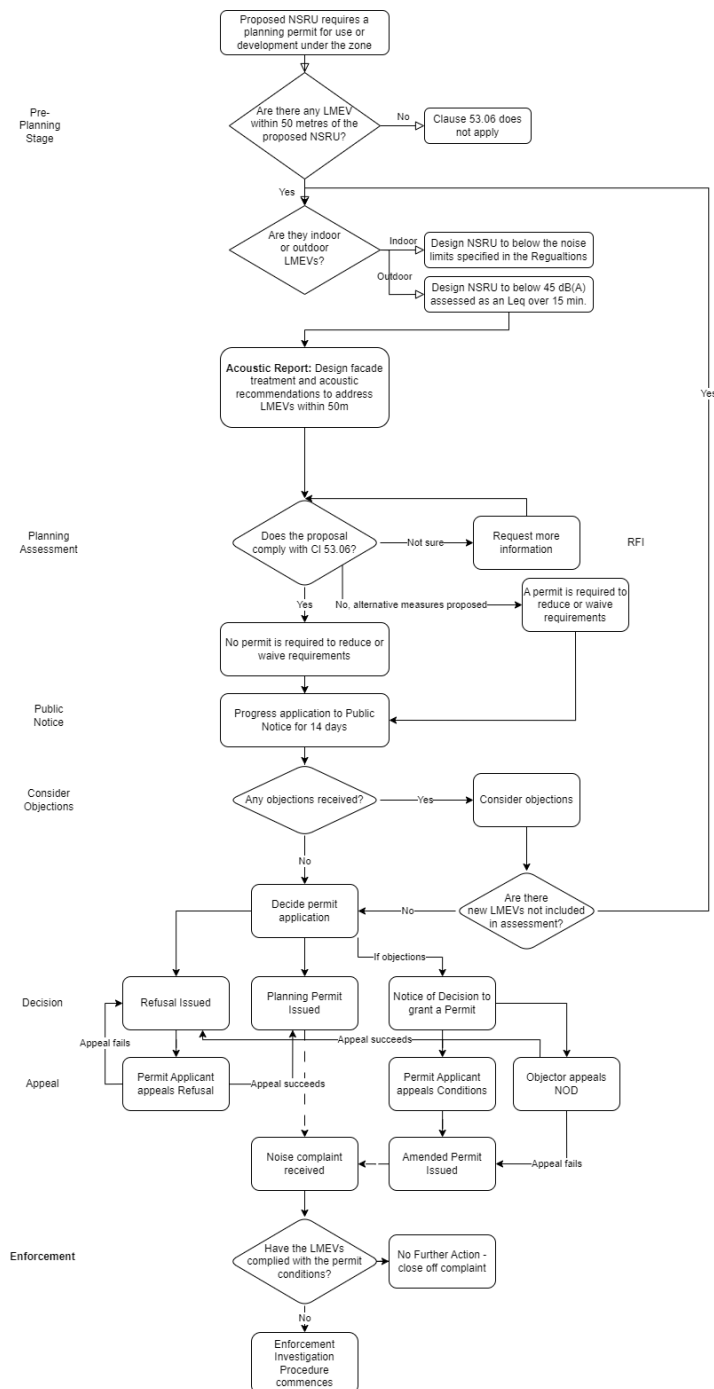


Permit Triggers for venues explored for inclusion in clause 3.0 of the schedule to Clause 53.06

Nesting	<i>Place of Assembly</i>					<i>Leisure and Recreation</i>
Land Use Term	<i>Hall</i>	<i>Art gallery</i>	<i>Place of Worship</i>	<i>Theatre</i>	<i>Recording Studio</i>	<i>Amusement Park</i>
Commercial 1 Zone	Planning permit required	No Planning permit required	No Planning permit required – if less than 250sqm	Planning permit required	Planning permit required	Planning permit required
General Residential Zone and Neighbourhood Residential Zone	Planning permit required	Planning permit required	No Planning permit required – if less than 250sqm and adjoins Transport Zone 2 or 3 and does not require car parking waiver	Planning permit required	Planning permit required	Planning permit required
Mixed Use Zone	Planning permit required	No Planning permit required	No Planning permit required – if less than 250sqm	Planning permit required	Planning permit required	Planning permit required

Appendix 2 Planning Permit Assessment Process under Clause 53.06





Appendix 3 Excerpt of Clause 73.03 - Land Use Terms that include music entertainment

Land Use Terms	Definition	Includes	Included In
Bar	Land used to sell liquor for consumption on the premises. It may include accommodation, food for consumption on the premises, entertainment, dancing, amusement machines, and gambling.		Food and Drink Premises
Function Centre	Land used, by arrangement, to cater for conferences, private functions, and in which food and drink may be served. It may include entertainment and dancing.	Conference Centre Reception Centre	Place of assembly
Hotel	Land used to sell liquor for consumption on and off the premises. It may include accommodation, food for consumption on the premises, entertainment, dancing, amusement machines, and gambling.		Food and Drink Premises
Nightclub	A building used to provide entertainment and dancing. It may include the provision of food and drink for consumption on the premises. It does not include the sale of packaged liquor, or gaming.		Place of assembly
Residential Hotel	Land used to provide accommodation in serviced rooms for persons away from their normal place of residence. If it has at least 20 bedrooms, it may include the sale of liquor for consumption on, or off, the premises, function or conference rooms, entertainment, dancing, amusement machines, and gambling.	Motel	Residential building
Restaurant	Land used to prepare and sell food and drink, for consumption on the premises. It may include: a) entertainment and dancing; and b) the supply of liquor other than in association with the serving of meals, if tables and chairs are set out for at least 75% of patrons present on the premises at any one time. It does not include the sale of packaged liquor.		Food and Drink Premises

C. Noise Analysis Technical Report



ST KILDA LIVE MUSIC PRECINCT PLANNING STUDY

Noise Analysis, Technical Report

Prepared For

CITY OF PORT PHILLIP C/- HODYL & CO

DOC. REF: V1205-01-P ACOUSTIC REPORT (R0)
24 MAY 2023

Enfield Acoustics Pty Ltd
ABN 15 628 634 391
Ph: +61 3 9111 0090
PO Box 920
North Melbourne, VIC 3051



Project	St Kilda Live Music Precinct Planning Study
Subject	Noise Analysis, Technical Report
Client	City of Port Phillip c/- Hodyl & Co
Document Reference	V1205-01-P Noise Analysis, Technical Report.docx
Date of Issue	24 May 2023

Disclaimer:

The information contained in this document shall remain the property of Enfield Acoustics Pty Ltd and the Client. The information contained within this document shall not be distributed to third parties without the written consent of Enfield Acoustics Pty Ltd and the Client.

The information contained within this document should not be relied upon by any third parties or applied under any context other than that described within this document. Advice provided in this document is done so with respect to instructions, on the basis of information supplied to Enfield Acoustics Pty Ltd at the time of writing, and in accordance with any reasonable assumptions, estimations, modelling and engineering calculations that we have been required to undertake. Enfield Acoustics Pty Ltd do not represent, warrant or guarantee that the use of guidance in the report will lead to any certified outcome or result, including any data relied on by third parties.



Glossary of Terms

CoPP	City of Port Phillip
LMP	St Kilda Live Music Precinct Planning Study
Study	The analysis, including this noise analysis, in response to the LMP and informing of a live music policy
EPA	Environment Protection Authority (Victoria)
Environmental Protection Framework	Legislative framework and hierarchy in relation to the control and enforcement of noise, including: <ul style="list-style-type: none"> • The EP Act • EP Regulations • Noise Protocol
EP Act	Environment Protection Act 2017
GED	General Environmental Duty, as defined in the Environment Protection Act 2017
EP Regulations	Environment Protection Regulations 2021
Noise Protocol	EPA Publication 1826: <i>Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues</i>
Agent-of-Change	As defined in Clause 53.06 and Planning Practice Note 81
Noise emitter or emission	In this Study, confined to live music entertainment
Sensitive land uses or noise sensitive area	As defined by the EP Regulations but generally being within 10m of a: <ul style="list-style-type: none"> • Dwelling • Residential building • Dormitory, ward, bedroom or living room of a caretaker's house, hospital, hotel, motel, accommodation, corrective institution, tourist establishment, retirement village and residential village.
Planning Report	Expert report prepared by Echelon Planning. Planning matters discussed in the noise study need to have regard to the Planning Report. Discussion points that require specific reference to the Planning Report are signposted throughout this document.

Technical References

- Environment Protection Act 2017 (<https://www.legislation.vic.gov.au/in-force/acts/environment-protection-act-2017/004>)
- Environment Protection Regulations 2021 (<https://www.legislation.vic.gov.au/as-made/statutory-rules/environment-protection-regulations-2021>)
- EPA Publication 1826 - Noise Protocol (<https://www.epa.vic.gov.au/about-epa/publications/1826-4>)
- General Environmental Duty (<https://www.epa.vic.gov.au/for-business/find-a-topic/environment-protection-laws-and-regulations/implementing-the-general-environmental-duty---a-guide-for-licence-holders>)



Executive Summary

Enfield Acoustics has been engaged as part of a collaborative project team led by Hodyl & Co to carry out a technical analysis of City of Port Phillip's (CoPP) St Kilda Live Music Precinct Planning Study (LMP).

The premise of the LMP is to find ways to actively support and protect existing venues and the growth of new live music venues in St Kilda.

This report provides technical analysis regarding opportunities and challenges to develop a framework which supports the objectives of the LMP, including within existing regulatory enforcement controls for noise. The purpose of this report is to initiate discussion and feedback from key stakeholders noting that further technical work and data analysis may be required to justify propositions set out in this report.

Two broader topics are analysed in this noise analysis, *planning* and *enforcement*, and in particular what obstacles arise in addressing noise impacts during both phases of assessment that may limit CoPP's autonomy to meet the objectives. In responding to these issues, we have considered opportunities beyond amendments to the planning scheme. The suggestion has implications that inherently require a 'whole of State government' engagement, including other authorities:

- Environment Protection Authority (EPA)
- Victoria Police
- Victorian Gambling and Casino Control Commission (VGCCC)

An overview of the current Environment Protection Framework is provided to address how it would limit the prioritisation of live music within the LMP beyond the 'agent of change' principle, with regard to any existing noise sensitive areas within and surrounding the LMP, and situations when a residential use is developed before a new live music venue. Precedents are analysed to better understand what opportunities might exist to prioritise live music through the LMP and is subject to further consultation and analysis, as well as consideration of other factors that fall outside of the noise analysis, including:

- Socio-economic studies;
- Housing development strategies within the LMP;
- Cost analysis for venues to control noise;
- Cost burdens placed on residential developers;
- History of noise complaint data; and
- History of residential encroachment within the municipality that has resulted in outcomes such as venues having to change operations or close, and what residential encroachment has occurred pre and post existing 'agent-of-change' provisions in the planning scheme.

Opportunities are explored to make the LMP more efficient by recommending that key areas are identified that are not as encumbered by existing sensitive land uses. The suggestion may provide



some benefit in planning efficiencies for new venues, as well as communicate operational expectations to live music operators. The suggestion is that key areas should be categorised on the basis of a risk profile that analyses the likelihood of noise impacts occurring from live music within the LMP. Suggestions are provided with respect to what parameters could be considered in categorising an application risk including proximity to existing sensitive noise areas, hours of operation and type of music venue.

Potential amendments to the Schedule to Clause 53.06 are considered that would provide further protection of live music venues, placing additional burden on residential developers that encroach on the LMP and recognising key sites for live music which would not otherwise meet the definition of a *live music entertainment venue* under Clause 53.06. The practical utility of Clause 53.06 and proposed amendments are discussed which primarily relate back to the proportional mix of existing noise sensitive areas within the LMP. This is because Clause 53.06 only assists in protecting live music venues that are established prior to a residential use. It is otherwise of limited use to support the growth of new live music venues or protect established live music venues where there are also established noise sensitive uses.

Refer to Planning Report
for further definition of
Clause 53.06.

Finally, technical advice is provided should the study consider how venues can be funded to increase their viability through adequate soundproofing. This advice is provided for the purpose of informing CoPP of the technical challenges of providing that support, from both a technical and construction perspective based on experience.

Preliminary recommendations for further exploration through the Study provided in this report include:

1. Ensuring that there is consistency across various regulatory frameworks;
2. Detailed classification of complaint data on file at Council, to determine the risk profile of certain types of music venues, and to assist definition of 'live music' that can be supported more easily;
3. The creation of Sub-precincts within the LMP, to better manage the various sensitivities within the broader LMP;
4. More appropriately scaled planning requirements, that lessens the burden on lower sensitive applications and small venues;
5. Utilising Local Laws, where the framework affords Council that autonomy to regulate noise impacts;
6. Engagement with the EPA to understand potential autonomy over outdoor events;
7. Reinforcement of the agent-of-change principle, including its practical implementation so that venue owners and the community better understand its utility;
8. Implementation of the LMP and specific venues recognised for live music through the Schedules to Clause 53.06, as well as consideration of minimum sound insulation requirements for new developments within the LMP, regardless of the prevailing noise impacts at the time of assessment;
9. Consideration of minimum sound insulation requirements for new developments within the LMP in addition to Clause 53.06 and regardless of the prevailing noise impacts at the time of assessment;



10. Engagement with the EPA to explore special provisions for the LMP through the Noise Protocol; and
11. Alternative measures that assist and advocate for live music venues while still controlling noise impacts on the community.



Table of Contents

Glossary of Terms.....	ii
Technical References	ii
Executive Summary.....	iii
1 Introduction & Scope	7
2 Existing Regulatory Framework for Live Music Venues	11
2.1 Legislation.....	11
2.2 Regulations	12
2.3 Noise Protocol.....	13
2.4 Local Government's Role and Consistency Across Authorities	14
2.5 Complaint Data	16
3 Existing Character of the St Kilda Live Music Precinct.....	17
4 Addressing Current Planning Burdens	20
5 Live Music on Public Lands.....	23
5.1 Busking.....	23
5.2 Festivals and Outdoor Events.....	23
6 Agent-of-Change Principle and Residential Encroachment.....	26
7 Utility of Existing Planning Clauses	30
7.1 Clause 53.06.....	30
7.1.1 Clause 1.0 to the Schedule – Protection of Beyond the 50m Trigger	30
7.1.2 Clause 2.0 to the Schedule – Exemption from Clause 53.06	31
7.1.3 Clause 3.0 to the Schedule – Protection of Specific Venues	31
7.2 Clause 13.05.....	32
7.3 Clause 13.07-3S	32
8 Development of New Planning Requirements and Alternative Standards for Minimum Sound Insulation of Residential Developments.....	33
9 Opportunities for Amended Enforcement Controls and Support of Live Music Venues	36
9.1 Benchmark for Special Provisions	37
9.2 Other Practical Assistance for Live Music Venues	38
10 Summary & Conclusion.....	41



1 Introduction & Scope

Enfield Acoustics has been engaged as part of a collaborative project team led by Hodyl & Co to carry out a technical analysis of City of Port Phillip's (CoPP) St Kilda Live Music Precinct Planning Study (LMP).

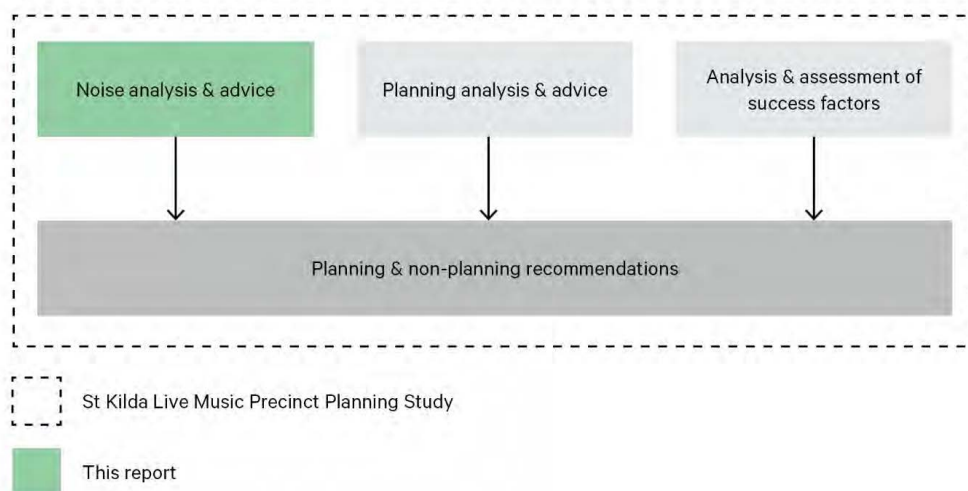


Figure 1: Outline of the Project Scope for the St Kilda Live Music Precinct Planning Study



CoPP's working definition of the LMP is:

An area in which live music is recognised as a priority activity, resulting in potential changes to regulatory frameworks, governance processes and communications to support and protect live music activity.

CoPP's definition of 'live music' is provided in their Live Music Action Plan 2021-24, as follows:

What is live music?

For the purposes of the Live Music Action Plan, live music is considered to be a music performance being given by a person or people, using their voice and/or musical instruments.

This encompasses everything from a solo acoustic busking performance on a street corner through to a formal concert for thousands at the Palais Theatre. It includes all genres including pub rock, classical, musical theatre, opera or hip-hop and anything else you can imagine.

The Plan is also inclusive of the wider music and live music industries, made up of an ecosystem that supports the end-product of live music performance. As defined in the 2019 City of Port Phillip Creative Industries Mapping Project, this is extended to include the following businesses, and the infrastructure, tools and patrons that support them:

- music venues
- nightclubs
- orchestras
- post-production facilities
- radio stations
- recording studios
- sound design facilities
- education bodies
- music organisations
- equipment hire
- music entertainment
- music publishing
- music schools.

The premise of the LMP is to find ways to actively support and protect existing venues and the growth of new live music venues in St Kilda.

This report provides a technical review of the current state of planning and enforcement of noise impacts, and provides advice on the technical issues that will need to be considered in CoPP's proposed Live Music Precinct Policy.

This report provides technical analysis regarding opportunities and challenges to develop a framework which supports the objectives of the LMP, including within the existing regulatory enforcement controls for noise. The issue of noise in this study is inherently nuanced by:

- Conflicting objectives between venue operators and the community, primarily sensitive land uses and residential development;
- Conflicting objectives within strategic planning, including a scheme that supports live music and entertainment as well as residential development;
- The statutory and local planning scheme and its effectiveness beyond planning, including use as an enforcement tool;
- State legislation and statutory noise policies, regulations and guidelines, of which the planning scheme is subordinate to and references;



- Consistency across various planning and enforcement authorities, including the Environment Protection Authority (EPA), Council and the Victorian Gambling and Casino Control Commission (VGCCC); and
- Inherent disparity between what can be resolved through planning amendments and approval processes, versus real impacts and limitations that might occur (both to venue stakeholders and the broader community).

To that end, we have provided commentary on the above issues throughout this report with respect to obstacles, failings, benefits and opportunities that are present within the current regulatory framework as well as what might likely arise in meeting the study objectives under an amended framework.

Two broader areas require consideration in this noise analysis, *planning* and *enforcement*. The two processes are deeply intertwined in considering the opportunity for success in this study with respect to noise. The technical requirements of the planning scheme are generally strategic and discretionary. Noise however is almost an entirely prescriptive discipline, which naturally lends itself to more specific requirements on permits and use as an objective enforcement tool after an approval has been granted for a use, whether by planning permit, licence or some other form of statutory approval. Noise is an ongoing compliance mechanism which means that any planning decisions need to factor in the ongoing compliance and the long-term success in approving a use beyond meeting a strategic intent.

In simple terms, if the LMP objectives are to be realised in practice into perpetuity, achieving the strategic intent while ensuring compliance with noise regulations is a challenge. Addressing the objectives from a planning perspective to encourage more live music approvals needs to consider whether those same objectives can be realised in practice from an enforcement perspective. The proposition is to avoid a scenario where simply 'cutting red tape' results in business proposals that ultimately cannot succeed with live music operations, or at least without significant cost to the venue operator, which is commonly the case.

In responding to this issue, we have considered opportunities to extend the analysis beyond amendments to the planning scheme. The suggestion has implications beyond the planning scheme, including propositions that inherently encompass legislation and regulatory framework at State level. This may be considered an unavoidable consequence if the LMP objectives are to be successful in the long-term. Without intervention at a State regulatory level, the proposal is otherwise generally limited to minor variations on the 'agent-of-change' provisions under the planning scheme. Commentary is provided in response to this issue however it is acknowledged that it is a difficult task to explore further without considering a 'whole of State government' engagement.

To that end, our commentary is provided as an opportunity/risk analysis, and so that City of Port Phillip is well informed on issues that might need to be considered beyond the strategic planning study. Preliminary recommendations are provided at the end of each Section in this report to explore opportunities to resolve potential land use conflicts through the planning scheme while facilitating the establishment of the LMP in support of live music.

While this report deals with a technical subject (noise), its purpose is to provide a 'plain language' report, from both a planning and enforcement perspective, in addressing the study objectives.



Further support or justification of ideas presented in this report may require more technical work as described in each section, where relevant.

The implications of the LMP may be transferrable to other municipalities and other potential LMP's across Victoria, in particular if a state policy intervention were to be considered.



2 Existing Regulatory Framework for Live Music Venues

As foreshadowed in the introduction, opportunities for success of the LMP beyond a planning framework are likely to be limited by statutory legislation, regulations and protocols enforced by the EPA, which in turn need to be enforced by Council. In this study, current statutory legislation, regulations and protocols limit the effectiveness of a revised framework that prioritises live music venues. If live music was to be prioritised through the planning scheme, the inherent risk is that there is an accelerated growth of live music venues that are setup for failure in operation due to current enforcement protocols, which would not resolve the inherent frustrations understood to be experienced by existing venue operators and applicants for new venues.

The following Sections provide an overview of the statutory controls and how they need to be considered in the context of amendments to the planning scheme. A description of the more technical aspects of the reference policies is provided to demonstrate the prescriptive and quantitative nature of the requirements.

Further reading on the technical requirements can be found at the Glossary of Terms and Technical References.

2.1 Legislation

Noise legislation is regulated under the Environment Protection Act 2017 (EP Act). The EP Act includes subordinate regulations and technical protocols that need to be followed when assessing whether a noise emission is reasonable, including the Environment Protection Regulations 2021 (EP Regulations) and EPA Publication 1826 (Noise Protocol). These requirements may also be enforced by Council's via a planning permit.

Depending on the noise source and type of premises operation, noise emissions can be enforced by several authorities including:

- Council
- Environment Protection Authority (EPA)
- Victoria Police
- Victorian Gambling and Casino Control Commission (VGCCC)

For licenced venues with any music, what is reasonable is defined by the EP Act, EP Regulations and Noise Protocol. All Victorians, including licenced premises, must also minimise the risk of harm to human health and the environment as a result of noise from their premises, under the General Environmental Duty (GED) contained within the EP Act. The GED assesses environmental risk and should not be confused with the regulated noise limits which assess what is unreasonable. Under the GED, the elimination or mitigation of environmental risk typically means more stringent controls than what is required to meet prescriptive noise levels, because those controls cannot be quantified numerically like a 'noise limit'.

In simple terms, any live music venue can be requested to demonstrate that their activities or premises has assessed and eliminated risk by the implementation of all reasonable and practicable controls, even if the use is meeting the prescribed noise limits.



While utility of the GED has not been broadly tested with regard to licenced premises or music events, the implication is that compliance with the planning scheme and regulated noise limits does not absolve an operator from their duty to minimise risk. While there is some vagueness in quantifying the GED in certain applications, a potential scenario that can occur is a live music venue complying with the regulated noise limits (and Clause 53.06 when utilised) but still being requested under the GED (typically by the EPA as the Authority) to further decrease amplification levels or install additional soundproofing if a risk is identified (such as via complaints). In such a scenario, this would likely conflict with Council's objectives to be more supportive of and prioritise live music operations.

The GED is a relatively new concept under the revised Environmental Protection Framework, however in the author's experience, it has been well tested by the EPA for commercial businesses and industry, with the above scenario now commonplace for industrial emitters. While it is apparent that the EPA has focused on commercial businesses and industry in the application of the GED, it could result in further obstacles and costs for live music venues operators, even if the proposed amendments to the planning scheme are able to lessen the burden at planning stage.

Because the GED applies to all Victorians, it could equally be applied to residential developers. While this would be a positive to protect venue operators, it is difficult to see how that would work in practice given the EPA is not normally a referral authority on residential applications, though in-principle, the EPA could have regard to planning approvals (such as Clause 53.06) in enforcement proceedings.

2.2 Regulations

The EP Regulations prescribe the hours and definitions for how unreasonable noise is assessed for live music venues. There are variations in the EP Regulations that describe unreasonable noise through the prescribed limits:

- For *indoor entertainment venues*, the noise limits vary depending on the time of operation, generally 11pm being the crossover time between more lenient and more stringent noise limits. An extract of Subdivision 2, Regulation 123 is provided below:

Subdivision 2—Indoor entertainment venues
123 Definitions—operating time periods
 In this Subdivision, in relation to music noise emitted from indoor entertainment venues—
day and evening period means—
 (i) Monday to Saturday (other than a public holiday), from 7 a.m. to 11 p.m.;
 (ii) Sunday or a public holiday (other than if either is preceding a public holiday), from 9 a.m. to 10 p.m.;
 (iii) Sunday or a public holiday (if either is preceding a public holiday), from 9 a.m. to 11 p.m.;
night period means—
 (i) Monday to Friday (other than a public holiday or a day preceding a public holiday), from 11 p.m. to 7 a.m. the following day;
 (ii) Saturday or any day preceding a public holiday, from 11 p.m. to 9 a.m. the following day;
 (iii) Sunday or a public holiday (if neither is preceding a public holiday), from 10 p.m. to 7 a.m. the following day.

Figure 2: Regulation 123 of the Environment Protection Regulations 2021



- Notwithstanding some special circumstances, the noise limits for *indoor venues* are derived by allowing some margin above the background noise. This means that the assessment of unreasonable noise in this instance is really a test of audibility against a masking noise (i.e. background noise). This is an important distinction when considering its use under Clause 53.06 (discussed later). What is important to note now is that this definition of unreasonable noise is always based on specific site conditions, which highlights why it is a difficult task to standardise controls which capture a wide area; a generic control that might work in one area of the LMP may be completely inappropriate in another area of the LMP if the background noise differs or the proximity between venue and sensitive use differs.
- For *outdoor entertainment venues and events*, the definition of unreasonable noise is different to indoor venues, as absolute levels are instead used to define reasonableness, generally being 65dB(A) outside a dwelling. The assessment of outdoor entertainment venues and events is not an audibility test (as described above) but instead an absolute noise threshold is prescribed. Reasonableness in this instance implies that noise will be clearly audible and emergent above background noise. This impact is instead offset by limiting the hours of operation and the number of times in a financial year that outdoor events can occur on a site. The general principle here is that a higher level of noise is not considered unreasonable if the community is only impacted for a limited and infrequent period of time.
- There is further flexibility within the EP Regulations for *outdoor venues and events*, in that a special permit can be granted by the EPA to allow extension of operating hours and/or number of permitted events. Because this is a discretionary process, it is clear that the EPA varies the definition of unreasonable noise for events with consideration of merit. Socio-economic benefit was a key factor in the previous *State Environment Protection Policy No. N-2*, now superseded by the EP Regulations and Noise Protocol. The implication is that indoor live music venues are not afforded the same level of socio-economic merit as outdoor venues and events, which is a matter beyond my expertise but should be considered by CoPP in the overall analysis. Whether or not designation of the LMP would justify socio-economic merit is a matter for further exploration by others and requires engagement with higher levels of government (i.e. Ministers).

2.3 Noise Protocol

The Noise Protocol is an incorporated document to the EP Regulations and defines the assessment methodology, including the more technical requirements for how specific noise limits are derived.



An important distinction to make for live music venues is the difference in methodology between the defined 'Day/Evening' and 'Night' hours, as defined in the preceding Section (see Figure 2). The well established concept is that communities are less sensitive to noise impacts that occur during earlier trading hours and so the assessment methodology relies on a more stringent audibility test during later trading hours only (generally after 11pm as the defined Night period). Because of this, the assessment during the Night period is more technical and requires a statistical analysis of specific frequency bands - something that is generally not well understood by non-technical persons. In practice, the purpose of this assessment is to account for the specific character or annoyance associated with music, which is commonly found in music with higher levels of low frequency (bass) content.

In the author's experience, this is the primary reason why the majority of community complaints are associated with clubs, bars and function centres, which primarily rely on pre-recorded music or DJs for entertainment. More traditional live band rooms are less prone to this emission for two reasons:

1. Live band rooms do not typically rely on late night trading, when the frequency analysis is required.
2. Live bands, acknowledging some obvious variance in this definition, are often weighted towards relatively higher frequencies when compared to electronic music which is weighted towards low frequencies.

The above distinctions may be important in the consideration of standardising controls through a planning scheme amendment and live music policy. The author considers the definition of 'live music' provided in the Live Music Action Plan 2021-24 to be broad, and it may be easier for CoPP to support certain types of live music operations, acknowledging that 'types of music' or genres is a difficult definition to prescribe.

More simply, it may be appropriate to scale the planning obligations in association with trading hours for live music. While no one standard approach will suit all applications, the author's opinion is that this might also reasonably delineate support for premises which the study is intended for (creativity and performance) against those premises that are perceived by the community as drinking establishments where music is only ancillary to the operation, such as bars and clubs that play recorded music only. The intent is not to prohibit support for more sensitive applications (e.g. late-night trading, certain music genres), but to instead scale that sensitivity accordingly so that some applications do not ultimately suffer as a result of a few riskier applications. Better definition of 'live music' would also likely capture broader community support, including residents.

2.4 Local Government's Role and Consistency Across Authorities

Council provides a role in regulating noise impacts and protecting the environment from excessive noise, including impacts on the community that expects reasonable amenity and quiet enjoyment.



Council provides local laws and local planning scheme requirements as well as enforces statutory controls and conditions approved on planning permits. Specific conditions on planning permits need to be complied with at all times in addition to general statutory planning controls. Often, strategic planning will conflict with the regulations and permit requirement that Council Officer's need to enforce. An common example of this conflict is the transitional period when a planning scheme amendment re-zones a non-sensitive area for sensitive development and housing – noise impacts will often occur while there is a mix of sensitive and industrial uses over many years of transition.

Consistency across the various controls also needs to be considered. For existing licenced premises within the LMP, there is likely to be a mix of venues with:

- Existing use rights
- Planning permits with specific noise conditions, as well as reference to statutory policies
- Liquor licences with specific noise conditions including limitations on music amplification (e.g. background music)
- Public and footpath trading provisions that may be subject to Local Laws

CoPP also plays a role in investigating noise complaints and determining whether a venue is complying with statutory noise controls and permitted uses, which includes approved permit conditions. CoPP has the authority to issue improvement notices and order that permit conditions are complied with, which can include noise standards. Historically, liquor licences and planning permits have not always aligned on conditions which can lead to operator confusion.

There may be specific obligations under permit conditions, such as:

- Amending plans to include noise controls
- Meeting specific noise levels
- Providing a satisfactory acoustic report
- Carrying out compliance testing
- Operational controls
- Restricted trading hours

How CoPP and other Authorities would apply enforcement through both the LMP and existing permissions, will largely depend on how a live music policy is developed for the LMP. By way of example, it may be that under a live music policy and planning scheme amendment, there is additional support to allow live music that is not currently granted on a venue permit. It is expected that other controls (e.g. liquor licencing) would also need to be amended for individual premises which would still be subject to approvals from the relevant authorities. This is highlighted as a matter for CoPP to consider in applying a policy that is able to provide consistency through a live music policy and across the various regulatory authorities and approval documents.

Risk	Preliminary Recommendation 1
St Kilda Live Music Precinct Planning Study Noise Analysis, Technical Report	V1205-01-P Noise Analysis, Technical Report_A4 Page 15 of 43



Consistency across different regulatory authorities that prescribe noise conditions will need to be coordinated so that one set of restrictions does not overrule another.	Further engagement with relevant authorities is required to inform the development of the LMP and possibly consider the scope of transitional licenses and permits.
Consistency required across various planning strategies to avoid conflict between housing and entertainment in the LMP.	In establishing an 'entertainment area', consider any conflicts with other planning strategies in the area for housing.

2.5 Complaint Data

As noted above, it is the author's experience in responding to noise complaints, including within the CoPP municipality, that the majority of music noise related complaints are generated for venues with recorded music amplification and late-night trading and not necessarily more traditional live entertainment.

The author is aware of other studies that have been carried out for other municipalities with consistent findings, including background work undertaken for the Fortitude Valley Special Entertainment Precinct (Valley Precinct), discussed later in this report.

To support the proposition that traditional live music operating without late-night trading hours generate less impacts, it is recommended that CoPP review complaint history data that is on record, or commence obtaining such data, to identify and catalogue:

1. The hours that complaints are normally received for music noise
2. The type of venue (e.g. function centre, bar, live band room) and type of use (live entertainment or pre-recorded music) that complaints are received about

Risk	Preliminary Recommendation 2
The perception that live music entertainment causes significant noise impacts may be overstated as a result of the broad definition of 'live entertainment' and 'music noise'.	Review complaint data available to Council to determine if impacts can be more explicitly catalogued for: <ul style="list-style-type: none"> • Types of venues and uses, and whether complaints come from live bands, DJ's, pre-recorded music in bars, etc • Trading hours when complaints are generated



3 Existing Character of the St Kilda Live Music Precinct

The proposed LMP covers a broad area of St. Kilda, as shown below:

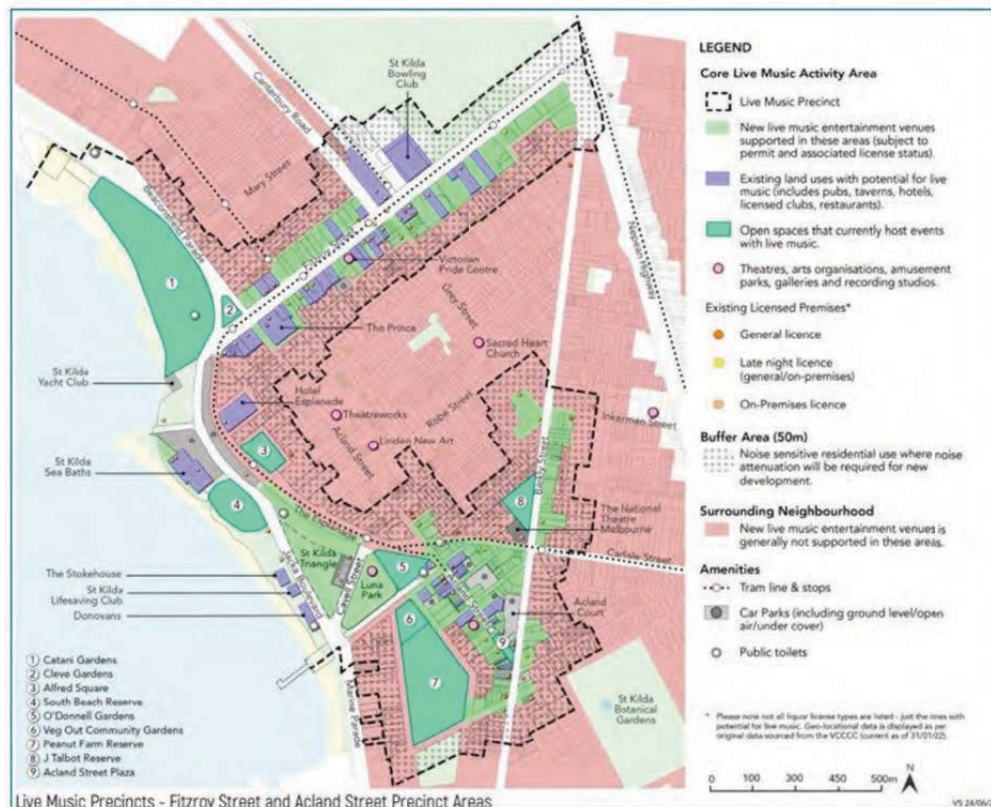


Figure 3: LMP Map provided by City of Port Phillip

The LMP captures areas beyond Activity Centres and areas of existing commercial activity. Our understanding is that one of the reasons for this is to capture residential encroachment, noted by the Buffer Area (50m).

The existing context and character within and surrounding the LMP is a key issue in the noise analysis. St. Kilda and the LMP can generally be described as an area of mixed-use development. While there are some more obvious 'commercial strips' within the LMP, site visits and previous work carried out by the author within the LMP indicates a prevalence of existing sensitive receptor properties. This includes a mix of older detached and terrace dwellings, apartments and shop-top dwellings. Indeed, it is a challenge to find large areas within the LMP that are not flanked by or have some proximity to existing sensitive use developments.

While undoubtedly there has been residential encroachment on established licenced venues over the years and this is an important factor for the longevity of the LMP, focusing on this issue as a way to meet the overall study objectives has some limited practical applicability. There is a



perception that the encroachment of new residents on existing live music venues is responsible for the closure of live music venues however complaint data should be investigated to establish whether this has been an acute issue within the LMP. Other studies which the LMP could draw from including the Valley Precinct identified that:

- Many complaints by residents within the older residential areas.
- Complaints generally involve new venues or venues that change operations

This is a key consideration for the LMP for the following reasons:

- Addressing the objectives through strategic planning and the planning scheme would be a simpler matter for 'greenfield' areas, or areas where planning requirements only need to focus on residential encroachment. The current 'agent-of-change' principle would generally be sufficient in that instance. Obviously, the St Kilda LMP does not fit this model.
- Because it is a well-established mixed-use precinct with a lot of history, balancing existing use rights and the prioritisation of live music through the planning scheme is a nuanced task with respect to noise impacts and regulatory requirements.
- Controlling the encroachment of new residential use does not necessarily resolve a fundamental issue around impacts on existing residential areas.

A key issue is how existing use rights within the LMP are to be treated. If the establishment of music venues is key to the prioritisation of live music, the implication is, at least under current regulatory requirements, that the opportunities for supporting the establishment of live music venues will be more limited than indicated on the proposed LMP because of existing residential areas. This is because under established 'agent-of-change' provisions in the planning scheme and noise regulations, a live music venue would still be responsible for controlling noise impacts at previously established dwellings. This factor makes it difficult to prioritise live music venues under the existing planning and enforcement framework. Further analysis on the agent-of-change principle is provided later in this report however it is worth noting that a potential outcome that encourages and supports live music in areas with established noise sensitive areas might have limited practical benefit unless an intervention of the regulatory framework was considered.

There are also implications in retaining or protecting existing live music venues within the LMP. While supporting their ongoing operation through a strategic planning instrument obviously has merit, it might not necessarily allow an existing venue to change operations or increase noise levels in line with operator expectations if there are existing residential uses that would be impacted by that intensification. For instance, if an established live music venue is already restricted by existing and proximate residential uses, changes to the planning scheme might not necessarily be beneficial to those existing operators.

Conversely, applying a LMP would obviously be a simpler task for greenfield sites, or established precincts that have not historically supported residential development through strategic planning, or do not have a long established build-up of residential development. That hypothetical study area could afford to focus and rely more heavily on the agent-of-change principle to resolve conflicting land uses, as there would be no existing sensitive uses to contend with.

In summary, areas with established residential uses will limit the effectiveness of any LMP under current regulatory requirements and there are a number of areas within the LMP where residential use is nestled within or on the interface of commercial areas.



There are however a number of opportunities to mitigate this conflict, that requires more detailed analysis in further Sections of this report. While an obvious solution would be to prioritise live music venues by allowing higher noise emissions within the LMP, that is a complex matter that requires consideration and caution.

In the first instance, a pragmatic way to balance the land use conflict requires review of the overall LMP area. While the broader LMP proposed is generally supportable, consideration should be given to more and well-defined areas for certain types of applications. The definition or risk of an application could be addressed in a number of pragmatic ways. We recommend that one way to address this would be defining 'Sub-precincts' with categorised sensitivities, where meeting the objectives could be scaled across the LMP. For example, easing the planning requirements for venues that are not proximate to established sensitive areas might be appropriate. Controls which are commensurate with Sub-precincts could include:

- Limiting hours of live music trading when in a sensitive Sub-precinct, and conversely extending hours for live music trading when in a non-sensitive Sub-precinct.
- Applying live music venue types to Sub-precincts (e.g. venues with outdoor live entertainment suited to non-sensitive Sub-precincts only)

In effect, the Sub-precincts would need to be scaled in a way that clearly delineated the level of noise amenity within that area (e.g. Live Music Precinct A – *High Impact*, Live Music Precinct B – *Moderate Impact*, etc). This would also provide some benefit to residential property developers for transparency and understanding of construction requirements during feasibility and siting studies of particular properties. Currently, the only way for property developers to understand noise impacts on a prospective site is to engage an acoustic consultant to undertake a site survey in addressing Clause 53.06. Limited site surveys can have varying levels of success in adequately capturing existing venue noise.

Alternatively, where Sub-precincts are not preferred, more explicit buffer distances to existing dwellings could be applied to live music venue applications, for example venues with live music after 11pm would require a greater buffer than venues with more limited trading hours for live music.

The above suggestion generally balances a more traditional merit-based assessment while allowing for the acceleration of permits and less restrictions in Sub-precincts that are not sensitive to noise.

A simpler application of Clause 53.06 would be to redefine the LMP to areas that do not have existing residential uses nearby, nominally within 50m for consistency with Clause 53.06. A more detailed study of GIS cadastral mapping would be required throughout the current LMP to understand the limitations of this approach. In the author's experience, there are a number of shop top dwellings in the area where residential status is often unknown or undefined.

A final risk in this approach that needs to be considered is the clustering of venues within smaller areas. The planning merits of clustering venues is a matter that will be discussed in the Planning Report, however it is worth noting that clustering of music venues can result in a 'side-effect' in that actual impacts need to be based on cumulative noise. The implication is that condensing higher noise emitting premises in close proximity to each other could result in each individual premises having to lower amplification levels so that the cumulative impact is reasonable. This is

Refer to Planning Report
for discussion on
clustering.



commonly referred to as ‘noise creep’ and while less common within existing activity centres with relatively wide separation between premises with live entertainment, there are certain scenarios where a new licenced premises that is introduced into an established live music area can result in those established businesses suffering as a result of clustering.

Risk	Preliminary Recommendation 3
<p>Under current statutory requirements, support for live music venues may be more limited over the entire LMP.</p> <p>The LMP is littered with existing sensitive use properties where planning controls to limit sensitive encroachment might not benefit the establishment of new venues, nor allow existing venues to emit noise in a way that they cannot already.</p> <p>Encouragement and support to ‘cut red tape’ throughout the broader LMP may result in the establishment of live music venues that are ultimately hindered by noise restrictions once operational. The risk is that in such instances, live music applicants may be given the perception of an ‘unhindered’ permit but become frustrated when they find they are restricted during operation.</p>	<p>Create Sub-precincts to better correlate existing character within the LMP with application proposals.</p> <p>Alternatively, consider a scaled buffer distance requirement based on the venue operation or condense the LMP to areas not in proximity to existing sensitive land uses to simplify consistency with Clauses 53.06 and 13.07.</p> <p>Review GIS cadastral mapping, if available, to better understand residential use land within the LMP.</p> <p>Explore complaint cataloging from new residential development (including those developed after Clause 53.06) versus established residential areas, to better understand the impact of encroachment.</p>

4 Addressing Current Planning Burdens

In the experience of the author, there is no ‘one-approach’ process for how an application for a live music venue is reviewed by Council, as it can depend on the planning officer’s discretion and



the number and type of objections raised during advertising. With respect to noise, approval or refusals are merit based which depends on how risk has been addressed in the proposal with regard to noise impacts. A number of varying processes within CoPP will typically determine an application approval (with respect to noise), including:

- The Council Officer's assessment
- Referral authority assessment
- If the application has undertaken an acoustic assessment
- If there are objecting parties to the proposal once advertised
- If there is a history of use on the land, particularly if a retrospective application or amendment to an existing permit
- If there are sensitive land uses nearby
- If the application has been referred to an expert for review
- Whether the application is referred to Council voting

Granted, there are decision guidelines within the planning scheme, some of which relate to noise, however in practice the relevant technical references for live music venues are the EPA regulations and protocols (previously discussed). The regulations and protocols are enforcement tools which are used as de-facto planning tools in this case. The regulations themselves do not provide specific guidance on the assessment of planning applications. Because the enforcement tools are not discretionary, but are used in a discretionary process, this means that an acoustic expert is normally required to assess the risk of noise impacts occurring from a live music venue through the context of future enforcement. The technical assessment typically requires predictive noise modelling to determine appropriate mitigation strategies and recommended permit conditions.

There are obvious benefits, both for applicants and CoPP, in simplifying the planning process for live music venues through the LMP framework. However, a balance between making the application process easier and without the guidance of technical assessment needs to be considered carefully to ensure that venues are appropriately designed and controlled.

Unfortunately, there are a number of variations that would determine the risk of a live music venue generating unreasonable impacts. Generally, no two venues are the same when it comes to noise emission or site context, so reliable standardised controls are not a straightforward matter in efforts to 'cut red tape'. Because the assessment normally relies on a technical analysis, it is a difficult task to derive a simple qualitative or standards-based approach to the planning scheme that is completely reliable.

Consistent with the recommendations in the preceding Section, the most pragmatic amendment that could be made to the planning scheme would be to standardise application sensitivities on the basis of:

- Distance to sensitive receptors
- Proposed hours of live music trading
- Whether the venue has a dedicated entertainment room or is otherwise in an acoustically untreated space
- Type of music application



While there are other variables that could be considered, perhaps the ‘type of music application’ parameter would be the most difficult to quantify. This is however suggested for the following reasons based on the author’s experience in planning compliance:

- The highest impacts are typically generated by venues that play pre-recorded music, including performances that loosely fit the definition of ‘live entertainment’ (e.g. DJ’s). With the exception of Clause 53.06, live entertainment is not well defined in the planning scheme, however it is found that DJ’s and venues geared towards larger amplification systems, front-bar or outdoor use (such as nightclubs, function centres and bars with sub-bass) are primarily responsible for the majority of music noise complaints and investigations into unreasonable noise impacts.
- Conversely, more traditional band rooms rarely result in the same kinds of impacts due to typical hours of operation and enclosure within venues. Venues with dedicated band rooms inherently have higher levels of sound insulation.
- Similarly, rehearsal spaces rarely result in significant impacts because they are normally acoustically treated and do not rely on late night trading.

Based on the above, it is suggested that more explicit definition should be considered to better delineate applications that focus on live music. This is discussed later in this report.

With the intent of the Study focusing on support for live music venues, it is noted that other types of uses within a licenced premises (e.g. patron noise, other forms of music, outdoor trading areas, etc) might still need to be assessed within current expectations and practices. The implication is that, unless an application is for a live music venue that does not rely on ancillary trading uses normally associated with a licenced premises, it may still be a reasonable expectation from CoPP that an applicant obtains an acoustic report from a suitably qualified person which addresses the entire use application. In some circumstances, it would be possible that the ‘live music’ component of an application is the least risky element, and that noise impacts from pre-recorded music and patrons during later trading hours still presents as a greater risk.

The planning scheme already includes clauses that define the risk of an environmental impact occurring for various types of industry based on buffer distances. It is suggested that a starting point to balance amending the scheme while meeting the objective of reducing burden on applicant’s would be to include a table or matrix, that categorises the risk of an application that proposes live music.

Opportunity	Preliminary Recommendation 4
The greatest opportunity to ease planning burdens would be to consider a standardised set of triggers that categorise the risk of a live music venue generating noise impacts.	Create a table or matrix of application parameters, which scales the likely risk of an application to result in unreasonable noise impacts, including but not limited to:
The intent is that applications that do not trigger specific assessment requirements (e.g., a low-risk venue) could be accelerated and reduce impost on applicants.	<ul style="list-style-type: none"> • Distance to sensitive receptors • Proposed hours of live music trading • Dedicated space for live entertainment • Definition of ‘live music’



5 Live Music on Public Lands

5.1 Busking

The issue of generating more support for street buskers has been raised as one of the objectives. Busking is regulated by Clause 19 of CoPP Local Law No. 1 (Community Amenities), but may fall outside the legal definition under which the EP Regulations and Noise Protocol apply.

Under the Local Law, a permit is required to busk and therefore, it is apparent that CoPP would have greater autonomy to vary the current restrictions on busking. With regard to statutory legislation and regulations, that autonomy is afforded by legal submission, which would require further advice from a legal expert, on the following basis:

- The EP Regulations control noise impacts from indoor and outdoor venues, more generally defined as a *premises*. The definition of *premises* may need to be explored via engagement with the EPA, and perhaps requires further legal definition.
- Outdoor events that occur on public lands rely on the definition of *event*, which is ambiguous but traditionally applies to a larger organised event with an intentional audience. If busking were classified as an *event*, it would result in a very difficult task in co-ordinating the number of uses to specific performance locations over a financial year, to ensure that it did not exceed the requirements of the EP Regulations. It is not foreseeable that buskers would be seeking special licences from the EPA to perform more than 6 times a year.

While the above may allow some flexibility in the prescribed controls for unreasonable noise, it is noted that busking might still be assessed more directly under the EP Act or other Acts that deal with a qualitative definition of 'unreasonable noise'.

Opportunity	Preliminary Recommendation 5
Busking is primarily controlled by Local Laws. There is opportunity for CoPP to have more autonomy on how the noise impacts from busking is enforced however this relies on legal definitions within the EP Regulations.	Legal definitions of <i>premises</i> and <i>event</i> to be confirmed by further legal advice and engagement with the EPA.

5.2 Festivals and Outdoor Events

The LMP includes areas of public spaces and parklands that have been sited for outdoor festivals and events. As noted in an earlier Section of this report, under the EP Regulations the definition of unreasonable noise is already afforded some flexibility at the discretion of the EPA for outdoor venues and events. The standard requirements are prescribed at Regulations 128-131 of the EP Regulations and generally relies on:

- Limiting hours of use to 8-hours and:
 - Within the hours 7am-11pm Monday-Saturday; and



- Within the hours 9am-11pm Sunday and Public Holidays.
- An absolute noise limit of 65dB(A) to define an unreasonable noise threshold during the permitted standard hours.
- Limiting the number of uses to six (6) in a financial year.

In the opinion of the author, in disregarding any opportunity to vary the prescribed noise limits, the greatest opportunity to support extended use of outdoor events on public lands would be for discretionary permissions to be made by CoPP. Currently, the Authority for extended permissions is the EPA, via permits L05 and L06 under the EP Regulations (extract shown below):

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Item</i>	<i>Activity type and summary description</i>	<i>Description of prescribed permission activity</i>	<i>Type of prescribed permission activity</i>	<i>Operating licence base fee in fee units (if applicable)</i>
76	L05 (Operation outside of hours or extended operations)	Operating an outdoor entertainment event or outdoor entertainment venue in the circumstances set out— (a) in the case of an outdoor entertainment venue, in regulation 128(1); or (b) in the case of an outdoor entertainment event, in regulation 129(1)	• Prescribed permit activity	



77	L06 (Conducting more than 6 outdoor concerts)	Conducting— (a) in the case of an outdoor entertainment venue, more than 6 concerts in a financial year; and (b) in the case of an outdoor entertainment event, a concert at a location where 6 concerts have already been held in a financial year	<ul style="list-style-type: none"> • Prescribed permit activity
----	--	---	--

This includes the current ability for the EPA to grant CoPP licence extensions for additional events and hours of operation. Within the existing Environmental Protection Framework, changes to the EP Regulations would be a more difficult exercise in comparison to changes to the Noise Protocol. Engagement with the EPA to date has confirmed that changes to the EP Regulations and Noise Protocol would not be considered and to that end, the only pathway for regulatory change would be to lobby higher levels of government (e.g. Ministers).

Opportunity	Preliminary Recommendation 6
<p>The EPA is the key regulatory authority for outdoor events that do not comply with standard controls.</p> <p>While granting Council more autonomy to assess these event applications would be beneficial in meeting the study objectives, this is unlikely to occur as a result of permit requirements being directly referenced in the EP Regulations.</p>	<p>Engagement with State government.</p>



6 Agent-of-Change Principle and Residential Encroachment

A key objective of the Study is the protection of live music venues within the LMP. This is noted in CoPP's working definition:

*An area in which live music is recognised as a priority activity, resulting in potential changes to regulatory frameworks, governance processes and communications to support and **protect live music activity**.*

CoPP's Engagement Summary Report also refers to *protection* as a key topic in survey responses:

I believe council needs to be proactive in partnerships to protect live music venues and promote new ones.

It makes a lot of sense to create a "system" to protect live music venues and also make them aware of their obligations to the area.

A precinct would help to ensure venues are protected.

Clear measures are fair, music venues should be protected but not at the expense of accessibility

Yes - music precincts are the best idea to help this industry. As I mentioned before, 'music volume' and venues being allowed to 'open' their windows & doors creates the environment/vibe that's so important to the success of this industry. Making developers adapt 'their' development to the precinct and 'buyer beware' to protect venues & musicians etc, giving them a level of reassurance and confidence to invest in the industry, and not pandering to the 'vocal minority'.

Love it!!! Its so important to protect live music.

Though the 'agent-of-change' principle has generally been applied through interface use policies in some other local planning schemes and state policies (e.g. infrastructure policies where a road authority is required to mitigate noise for a new infrastructure development, but a new residential developer is also required to mitigate noise for a new development), the principle was introduced for live music controls through Clause 53.06 to the planning scheme. Prior to this introduction, it was a 'polluter pays' principle, regardless of first occupancy rights. The principle is a relatively simple concept in planning, best summarised by Planning Practice Note 81 to Clause 53.06:

Refer to Planning Report for further definition of Clause 53.06.

In planning, the agent of change principle assigns responsibility for noise attenuation measures to the 'agent of change' – a new use or development that is introduced into an existing environment.

In a more technical application of Clause 53.06, it allows noise compliance to be tested from inside a dwelling rather than the more traditional method of testing compliance outdoors for new residential development. The requirements for new venues under Clause 53.06 are otherwise non-prescriptive and generally fall back to the traditional assessment of noise impacts external to a dwelling when assessing what is acceptable.



As foreshadowed in earlier Sections, while residential encroachment has often been viewed as one of the greatest threats to the sustainability of live music in Victoria, it is apparent that it is not a model that acutely fits the LMP for the following reasons:

- The area appears to have had a lot of mixed-use development historically, with a number of older dwellings in the area.
- Where more modern dwellings have encroached on the area, it is not foreseeable that the agent-of-change principle can be retrospectively applied through a live music policy.

The above does not mean that the agent-of-change principle will not play an important role for ongoing sustainability of live music, only that its focus might distract from the issue of venue compliance more broadly across the LMP where existing sensitive land uses already exist. Opportunities regarding more defined areas within the LMP have already been discussed, which may lend itself to better utility of the agent-of-change principle and Clause 53.06, for example areas which are absent of existing residential use in proximity to live music venues.

While Clause 53.06 has obviously provided great improvement to the planning scheme by avoiding the 'polluter pays' approach, it is not without complexity in certain practical situations and the author's experience is that tensions still remain between venue operators and residential developers, often because of misunderstandings around the practical application of Clause 53.06. As previously noted, there is also a perception that residential encroachment is the greatest threat to live music venues, though this is not necessarily the case for areas with long established residential uses.

To support the proposition that residential encroachment has been and continues to be a problem, and that this perception from venue operators is correct, the author suggests that CoPP should undertake a more detailed study on:

- What residential development or re-zoning has resulted in an established music venue having to either close, limit live music, change operations or implement sound insulation;
- Of any residential development identified above, which of those situations occurred before and after the agent-of-change provision first being gazetted in the planning scheme under VC120;
- Any complaints received from a residential use that was designed to comply with Clause 53.06 (or the previous clause under VC120); and
- Any complaints received about music venues that are beyond the 50m trigger specified at Clause 53.06.

From the author's experience, the following critique is provided in an effort to explain why some of those tensions still exist and to consider improvements that could be integrated into a live music policy to support venue operators in better understanding encroachment definitions:

1. While the definition of agent-of-change is well described through permit triggers, it can be ambiguous to venue operators that rely on an interpretation of the 'spirit' of the clause.
2. In practice, the technical parts of Clause 53.06 are essentially triggered by any permit application to develop or construct a sensitive building. Planning Practice Note 81 provides further context on this and considers the 'expansion' of a live music venue as an agent-of-change. A live music venue that 'expands' within existing built form does not necessarily re-trigger Clause 53.06 though. This can be ambiguous and misunderstood by venue operators and residential developers alike:



- a. Where a venue changes operations that do not trigger Clause 53.06, a residential dwelling has not necessarily been future-proofed for that scenario.
 - b. Where a venue changes operations that do trigger Clause 53.06 (i.e. expansion), venue operators are often surprised that a residential development has not been future-proofed to allow for that change. The perception from laypeople is often that they are futureproofed by Clause 53.06 into perpetuity.
3. Clause 53.06 does not apply to an extension of a dwelling. Though the author understands that the intent of this is to apply to older dwellings that pre-existed before Clause 53.06, it is foreseeable that a dwelling in the future that was previously constructed to comply with Clause 53.06 can develop an extension that does not require it to meet the same construction standards.
4. While its primary purpose is to protect existing live music venues from residential encroachment, it is often misunderstood that it also applies to new music venues. Clause 53.06 does not provide much benefit over the traditional method of compliance assessment defined by the Noise Protocol. Clause 53.06 does not vary the measurement method when the venue is the agent-of-change. This is primarily because a residential use would have occupancy rights when a new venue is introduced. It would also be impractical to seek access to private residential properties for testing and therefore the standard method of measuring noise outside of a dwelling is normally relied on. Further, unless a dwelling has a well-constructed and sound insulated façade, the practical benefit of measuring indoors would be negligible anyway.
5. When comparing a new live music venue versus a new residential development, the objective wording differs under 53.06-3 – *Requirements to be met*. A new live music venue has to be designed to ‘minimise noise emissions’. Discretionary wording like this can often be used for or against a proposal, however it is noted again that the traditional method of assessing a new live music venue for compliance outdoors is relied on to address this. Conversely, a new residential development is subject to a quantitative assessment under 53.06-3 – *Requirements to be met*, which requires a noise threshold be met inside a dwelling with windows and doors closed.
6. Clause 53.06 is sometimes misinterpreted by venue operators in providing protection when a dwelling changes ownership or tenancy. This is often because a resident that is accustomed to noise may be more tolerant to noise from established venues, whereas the opposite experience can occur for residents new to an area. Equally, existing venues with moderate live music trading that come under new ownership can sometimes result in significantly higher noise emissions that were not accounted for in the original Clause 53.06 assessment for a residential development. Such a change in operation would not trigger a planning amendment, and therefore Clause 53.06 would not be triggered.
7. When Clause 53.06 (previously 52.43) was initially gazetted, it was commonly ignored in practical assessments if a non-compliance was already identified at pre-existing residential uses nearby or closer to an existing venue. This was somewhat rectified in a revision of Practice Note 81 (May 2016) which states:
An existing venue’s compliance, or otherwise, with SEPP N-2 does not change a residential developer’s obligation under Clause 52.43 to satisfactorily protect a new residential use from existing noise emissions. This is the case regardless of whether an existing noise sensitive residential use in the area has taken limited or no measures to protect themselves from noise emissions of an existing venue.



There is still some ambiguity with the above, however compliance is a different matter to planning in this context. Noise compliance investigations are primarily driven by complaints and the implication from Practice Note 81 is that testing an existing venue's non-compliance is not a suitable method to absolve noise mitigation requirements on behalf of a new residential developer.

8. Noise assessment under Clause 53.06 can have limited accuracy because:
 - a. Internal ambient noise conditions are unknown when assessing a new residential development, however this is a risk borne by the residential developer.
 - b. Construction requirements are determined by site noise surveys. For some venues, this can vary widely day-to-day and therefore capturing a worst-case scenario is not a straightforward task. A site survey might not capture the highest music noise emissions from a particular venue and therefore the noise impacts on a new residential building can be underpredicted.
 - c. The assessment and prediction of low frequency noise transmission into buildings has a lower degree of reliability when compared to other types of noise assessments. For music noise, an assessment down to 63Hz is normally required and typically there is no sound insulation test data available below 100Hz.
 - d. If a compliance measurement is undertaken due to a complaint from a residential building that has been designed to comply with Clause 53.06 during the planning phase, it can be difficult to know whether an excessive noise is because of improper installation of sound insulation materials or if the venue noise emission has varied, unless the planning assessments are well documented and on file.
9. A residential developer is only required to assess venues within 50m of a venue. Some venue's can emit excessive noise beyond the 50m buffer.

A final consideration of the assessment methodology for Clause 53.06 is the perception that better building standards for residential developments inherently resolve the conflict. While this is true in a lot of cases if a building is designed correctly, there is an interesting technical oddity in the assessment that is often misunderstood by laypersons. Though the assessment location is moved indoors of a dwelling, it is still based on a test of audibility. Because of this, the sound insulation that is afforded to control music noise impacts also generally reduces the background noise (e.g. from traffic) by the same magnitude so does not necessarily change the audibility to masking relationship. Exacerbating this problem is that most typical window systems required for energy standards (such as double glazing) can actually increase low frequency noise due to resonance and the assumption by both venue operators and residential developers that double glazing is the solution for music noise problems is a misnomer.

This is an important consideration, given there is often the perception that moving the noise assessment location inside a dwelling would resolve music noise issues. This might provide a false sense of protection, in particular for residential buildings that have not been conservatively designed specifically for indoor compliance using the audibility testing method of the Noise Protocol. To resolve this, many acoustic consultants simply assume that the 'base noise limits' that apply under the EP Regulations, often resulting in conservative recommendations.

Generally, Clause 53.06 provides reasonable and satisfactory intent that should be strongly reinforced through the Live Music Precinct Policy, though it does not necessarily 'solve the problem'. While Clause 53.06 is well documented, it is apparent that there is a lack of communication on its utility. There would be some benefit in providing clear explanatory notes



on its use if ongoing tension between venue operators and the community is to be mitigated through a live music policy.

Opportunity	Preliminary Recommendation 7
Reinforcement of Clause 53.06 through the Live Music Precinct Policy.	Provide clear explanatory notes on the utility of Clause 53.06.

7 Utility of Existing Planning Clauses

7.1 Clause 53.06

7.1.1 Clause 1.0 to the Schedule – Protection of Beyond the 50m Trigger

While the general application of Clause 53.06 was described in the preceding Section, it is noted that Clause 1.0 to the Schedule of Clause 53.06 provides an opportunity for the LMP to be included



as a scheduled area in which Clause 53.06 applies to a new residential use, regardless of whether it is within 50m of a live music entertainment venue.

Inclusion of the LMP to Clause 1.0 to the Schedule would protect existing venues that generate noise impacts beyond 50m by applying the attenuation burden on a residential developer, regardless of distance to a venue. Under the normal provisions of Clause 53.06, a residential developer can otherwise ignore noise impacts from venues beyond 50m of their site.

Because the LMP is populated with existing residential areas, there is likely to be a limited number of venues that would benefit from this in practice. The addition of the LMP to Clause 1.0 to the Schedule does not provide any further protection for venues that have existing noise obligations at sensitive land uses closer, nor would it have any benefit for new music venues that are the agent-of-change.

An impracticality that could arise in the assessment on behalf of a new residential development is that a noise survey would need to capture representative noise levels from, potentially many more live music venues. The normal methodology of capturing noise exposure on a new residential site is to identify live music venues within 50m and undertake a noise monitoring survey to determine the impacts, which in turn allows a façade to be designed with the correct sound insulation properties. This methodology can already result in unreliable assessments. Venues have variable noise levels and therefore a requirement to capture more venues under a combined 'worst-case scenario' in the assessment only gets more complex and unreliable, however this burden would rest on the residential developer. Theoretically, the inclusion of the LMP to Clause 1.0 to the Schedule implies that every live music venue in the LMP would need to be assessed at each new residential site, though in practice, it can be expected that only a limited number of venues both within and beyond 50m (typically the closest venue) would end up driving façade requirements for most residential developments.

7.1.2 Clause 2.0 to the Schedule – Exemption from Clause 53.06

Clause 2.0 to the Schedule allows for residential areas with a scheduled area to be exempt from Clause 53.06. By definition, Clause 2.0 to the Schedule does not assist in prioritising live music and instead would prioritise a residential use.

While there may be merit in exploring alternative assessment methodologies and/or sound insulation requirements for new residential buildings through this Study, Clause 2.0 to the Schedule does not assist. It is understood that alternative mitigation requirements would need to be facilitated through other planning clauses in the scheme or Design and Development Overlay (DDO) for the LMP. These matters are discussed later in this report.

7.1.3 Clause 3.0 to the Schedule – Protection of Specific Venues

While the majority of live music venues would fall within the existing definition of *live music entertainment venue* of Clause 53.06, Clause 3.0 of the Schedule to Clause 53.06 also allows the listing of other specific venues that can be recognised for the performance of live music, capturing a broader range of building types such as public spaces, community halls, businesses and potentially pop-up spaces to be considered as a 'live music entertainment venue'.



Consistent with the discussion above, Clause 3.0 of the Schedule to Clause 53.06 also cannot be used to establish an area (i.e. the LMP) that needs to be protected, only specific venues, and therefore cannot be used as a way to require residential developers to consider the future prospects of the LMP in assessing to Clause 53.06. In addition, because Clause 3.0 of the Schedule to Clause 53.06 requires specific addresses to be listed, the author assumes that this would not provide flexibility for CoPP to add venues on an ongoing basis, without seeking an amendment to that Schedule each time.

Refer to Planning Report for discussion on strategic policies.

Opportunity	Preliminary Recommendation 8
<p>The addition of the LMP to Clause 1.0 of the Schedule to Clause 53.06 provides greater protection to any existing venues that might cause impacts beyond 50m, though its use may be limited in practice by any obligations on those venues to comply at closer existing dwellings.</p> <p>The addition of other buildings to Clause 3.0 of the Schedule to Clause 53.06 has the obvious benefit of protecting non-traditional performance spaces, however is limited in that spaces could not be listed ad-hoc on an ongoing basis.</p>	<ul style="list-style-type: none"> • Add the LMP to Clause 1.0 of the Schedule to Clause 53.06 • Add specific venues important to live music performance to Clause 3.0 of the Schedule to Clause 53.06, which otherwise do not meet the definition <i>live music entertainment venue</i> under Clause 53.06

7.2 Clause 13.05

Clause 13.05 is a strategic policy that relates to the management of noise impacts through orderly planning and development. It is a broad policy in relation to noise and does not provide any specific criteria, other than reinforcing the use of the Environmental Protection Framework through referenced policy guidelines and documents. This is a strategic policy that is addressed in the Planning Report accompanying the Study.

7.3 Clause 13.07-3S

The author views Clause 13.07-3S as an overarching policy that supports the Study and LMP. The strategies of Clause 13.07-3S can be considered consistent with previous advice regarding the identification of Sub-precincts and the clustering of venues, as well as the issues identified in co-existing with noise sensitive land uses. Beyond this, it is a strategic policy that is addressed in the Planning Report accompanying the Study.

Refer to Planning Report for discussion on strategic policies.



8 Development of New Planning Requirements and Alternative Standards for Minimum Sound Insulation of Residential Developments

Clause 53.06 does not allow for any assumptions to be made about the establishment of future live music venues, meaning that only impacts at the time of the noise survey can be considered. To that end, prioritisation of live music would be limited to those venues that exist prior to residential encroachment through Clause 53.06. A greater intervention would be required through the planning scheme and Environmental Regulatory Framework to 'futureproof' the ongoing establishment of live music venues.

Ignoring the exploration of special provisions within the Environmental Regulatory Framework, which is discussed later in this report, a practical way of doing this through the planning scheme might be to require any residential development to install a minimum level of sound insulation to facades if sited within the LMP. However, to be able to standardise minimum sound insulation requirements for new residential developments, venue noise emissions would also need to be standardised so that both venue operators and residential developers could have confidence that the minimum sound insulation requirements would meet the regulated noise limits. This is essentially the methodology that has been adopted in the Valley Precinct which has been able to



standardise controls by setting a standard noise limit outside of all venues. There are pros and cons to such an approach which are discussed later in this report under more detailed analysis of the Valley Precinct. Within the Victorian context, there is an inherent conflict with standardising noise limits against the Environmental Regulatory Framework because there would still be a risk of venues exceeding prescribed EPA noise limits. The Valley Precinct cannot be used as a direct benchmark for this reason.

Again it is demonstrated that the Environmental Regulatory Framework limits the ability to 'futureproof' the ongoing establishment of live music venues. Consideration of minimum sound insulation requirements for new residential developments in addition to the requirements of Clause 53.06 (through a separate planning clause or DDO) could still provide some practical benefit and prioritisation of live music within the LMP, such as limiting the number of noise complaints that occur. An example of where the minimum sound insulation requirements might be applied is if prevailing noise levels at a new residential development were measured to be relatively low at the time of assessment in accordance with Clause 53.06, but there was some expectation that there would be a growth in live music venues (proximate to the residential development) in the future. While the future live music venues would be the agent-of-change, there would already be a level of internal amenity protected provided by the residential development.

The author considers that if the minimum sound insulation requirements were to have any practical effect in minimising the long-term development of the LMP, the sound insulation requirements might actually need to equate to best practice construction, essentially providing the highest sound insulation performance rating that can be achieved for a residential dwelling. This typically means high mass facades (e.g. concrete) and secondary glazing to windows. There are obvious implications from applying these minimum sound insulation requirement in addition to the requirements of Clause 53.06:

- New residential developments may be over engineered for sound insulation if the potential music noise impacts don't eventuate in the future; and
- The economic impacts of that potentially excessive sound insulation would be borne by the residential developers.

A study of the economic implications on affordable housing may need to be considered under this strategy.

While the focus of the Study is on live music impacts, it is noted that a further benefit of minimum sound insulation requirements could also resolve more general noise impacts that could occur within the LMP (e.g. patron and traffic noise).

While the minimum sound insulation requirements would still not absolve a new live music venue from its obligations as the agent of change (if established after a new residential use was constructed with the minimum sound insulation requirements), it may be viewed as a way of minimising the risk of future noise impacts, land use conflicts and complaints when a new live music venue is established.



<p>In-lieu of being able to 'futureproof' the LMP due to current regulatory framework, there is still opportunity for pragmatic controls to be implemented through the planning scheme to minimise the risk of complaints if new residential buildings are constructed with minimum sound insulation requirements, in addition to the requirements of Clause 53.06.</p>	<ul style="list-style-type: none"> Consider new planning scheme clause or DDO that requires a minimum level of sound insulation to all new residential developments within the LMP, regardless of whether the prevailing noise impacts are low at the time of assessment to Clause 53.06
---	---



9 Opportunities for Amended Enforcement Controls and Support of Live Music Venues

Up to this point in the noise analysis, the author has attempted to balance the study objectives within the confines of existing enforcement policy. Resolving the key issue of being able to better support live music venues in areas where there are existing sensitive land uses nearby would require a significant change to enforcement policy. The EP Act and EP Regulations in particular are documents that do not lend themselves to amendment, though there may be limited scope to consider special provisions in the Noise Protocol to facilitate the LMP, on the basis that the Noise Protocol has incorporated other clauses and DDO's from the planning scheme. In consultation with the EPA, it is understood that certain planning clauses and DDO's have simply been incorporated into the Noise Protocol to better align with the planning controls. The implication is that a change to the planning scheme might be a catalyst for change in the regulations, as was Clause 53.06, though that cannot be guaranteed.

Such a proposition would need to be undertaken by CoPP from a position of advocacy and the EPA would need to be engaged in further discussions, as would the relevant Ministers. To that end, the following commentary is provided only to highlight the complexity of balancing mixed land uses within the LMP and well-established noise limits that protect amenity.

As previously discussed, there is practical difficulty in meeting the objective to fully prioritise live music within the LMP because of current enforcement policy, which cannot be resolved through the planning framework. Without special provisions that deal with enforcement, the LMP area as presented could be under-utilised in practice.

One of the key questions in prioritising live music within the LMP is whether it should be treated similar to land use zoning. It is common throughout the planning scheme as well as the Noise Protocol that land use zoning is an acceptable way to set expectations on amenity. While this is a pathway to setting absolute noise limits to describe unreasonable noise rather than the current methodology of audibility testing, significant research would need to be undertaken to justify such a change, including topics beyond noise impacts on communities, which is something normally undertaken by the EPA. It is expected that studies on socio-economic impacts would also need to be undertaken to provide any justification to any changes to the Environmental Regulatory Framework. These are all matters beyond the scope of this noise study.

In areas where there are existing sensitive land uses, this would also have implications on existing use rights and likely other impacts beyond the scope of the noise study. As previously noted, affording priority 'zoning' for the LMP would be a more straightforward task for greenfield precincts, or areas devoid of existing sensitive land uses, because Clause 53.06 would practically resolve any conflicts in that scenario.

Notwithstanding the above obstacle, it is noted that the EP Regulations and Noise Protocol already appear to consider various provisions that balance amenity expectations with socio-economic merit, as well as inferred prioritisation of live entertainment through:

1. Permit variations for outdoor music events in the EP Regulations.
2. Incorporation of Clause 53.06 at Section 3 of the Noise Protocol.



3. Incorporation of DD012 to the Melbourne Planning Scheme at Section 1.1 of the Noise Protocol.

Opportunity	Preliminary Recommendation 10
<p>The key obstacle to the Study objectives in this noise analysis is considered to be the number of existing sensitive use lands within the LMP. The implication is that while Clause 53.06 assists with ongoing residential encroachment, prioritization of live music will be practically limited by existing enforcement controls.</p> <p>The only way to prioritise live music more generally through the LMP would be to establish special provisions and limits in the Noise Protocol above those normally accepted by the EPA. There is limited scope to address this prior to engagement with the relevant authorities.</p>	<p>Engagement with EPA Victoria and government Minister's to explore special provisions for the LMP. Needs to be undertaken by CoPP from a position of advocacy first, not expert opinion.</p>

9.1 Benchmark for Special Provisions

A relevant benchmark to this Study can be found by reference to the Valley Precinct. Brisbane City Council facilitated the Valley Precinct in 2006 and to the authors knowledge, is still the only one of its kind in Australia that prioritises live music in this way.

This is an obvious benchmark that this study needs to consider given the similarity of objectives, however there are clear differences in the regulatory framework between Queensland and Victoria that need to be considered:

1. EPA Queensland does not set specific protocols for music noise emissions in the same way that Victoria does. Typically, music noise is regulated and enforced by Liquor and Gaming as well as Council's.
2. Generally, local government has greater autonomy on noise policy in Queensland when compared to Victoria.
3. Brisbane City Council is better able to regulate music noise through local laws because of that autonomy.

While one of the primary purposes of the Valley Precinct is to limit residential encroachment, the more relevant benchmark for this Study is the use of absolute noise thresholds (rather than audibility testing under the Victorian method). While this does not mean that venues can generate noise carte blanche, there are obvious benefits to this approach for venue operators in:

- Easier self-regulation of noise levels because access to sensitive land uses is not necessarily required
- A less technical and more practical approach when compared to Victoria, by not relying on audibility testing
- Standardisation across broader areas, all venues and residents generally understand their rights and noise limits
- Increased certainty of outcome in planning for new venues because allowable noise levels are easier to verify



Further, the Valley Precinct scales music noise emissions across separate key areas which is consistent with the earlier suggestion to consider this approach for the LMP.

A key element to the Valley Precinct controls is that absolute noise thresholds are used to both assess noise emissions from venue's as well as noise impacts inside residential dwellings. One of the critiques established earlier around Clause 53.06 was that there is a degree of unreliability in the assessment because:

- Background noise in a proposed dwelling is unknown and difficult to predict
- There is reliance on a noise survey capturing representative worst-case noise emissions from a venue

The Valley Precinct method of assessment avoids the above issues by applying absolute noise limits 1m outside of a venue, as well as absolute noise limits inside a dwelling. The advantage of this method is that the 'goal posts' remain fixed for both venues and residents by eliminating:

- Any unreliability in the prediction or assumption of background noise levels inside a dwelling; and
- Any reliance on a noise survey to establish the venue emission.

The implication is that an assessment could be reliably undertaken entirely by desktop. It would also allow authorities to investigate noise impacts as there is no complexity to the assessment procedure and noise levels could be verified relatively easily directly outside of a venue. For the same reason, venue operators could more easily self-regulate noise emissions.

A negative to draw from the Valley Precinct method however is that in some situations, venues could either:

- Have amplification levels unfairly limited when not in close proximity to any residential uses; or
- Require additional and costly sound insulation when not in close proximity to any residential uses.

Regardless, adoption of a method similar to the Valley Precinct would require substantial changes to the noise regulations in Victoria which is not foreseeable in the short-term.

There are other similar proposals that the author is aware of but which have not been approved at the time of writing including:

- The Southport Special Entertainment Precinct (QLD)
- The Northbridge Special Entertainment Precinct Reform (WA)

The Southport Precinct proposal essentially borrows from the Valley Precinct (including consistent noise metrics), by implementing amendments to liquor licencing and local laws.

The Northbridge Precinct proposal similarly considers the adoption of absolute noise limits (consistent with the QLD model), however the WA regulatory framework is similar to Victoria in that amendments to the EPA regulations in that state would also need to be considered.

9.2 Other Practical Assistance for Live Music Venues



To best balance the study objectives in the context of the Victorian scheme, it is likely that alternative measures will need to be considered to better support the growth of live music venues within the LMP.

While it is beyond the current scope of the noise analysis to detail such provisions, it is suggested that a starting point may be to consider how funding can be generated to support the soundproofing of venues and spaces intended to host live music. The following commentary is provided to assist those involved in such matters, with experience drawn from the author's previous work in assisting the private sector, including venue operators and residential developers:

- Soundproofing of venues can be a difficult and costly task, in particular for venues that require rectification (as opposed to new venues) and for buildings with layouts that are not well suited for live music (i.e. venues without dedicated band rooms).
- Desirable soundproofing options can often conflict with other building codes and regulations, including fire, patron and DDA egress as well as heritage requirements for older buildings.
- Venue operators are not necessarily the owners of the buildings. Soundproofing can add significant cost to a venue which is particularly burdensome for tenants that might operate on a limited lease period.
- In situations where there are relatively few impacted dwellings, acoustically treating dwellings can present as the least costly exercise in construction, however there are inherent issues with obtaining consent from property owners and this does not necessarily resolve compliance.
- While the perception is that window glazing is the cure to many music noise issues, this is often not the case. Low-frequency attenuation requires difficult and costly construction that is not simply resolved by 'better windows'.
- The LMP has a relatively high volume of music noise issues that are generated due to mixed use buildings and/or attached buildings. The most common example of this throughout St. Kilda is ground floor venue spaces with residential living directly above. Such scenarios can range from cheap simple fixes (e.g. mounting loudspeakers on vibration isolation brackets) to impractical fixes depending on structural connections.
- While noise limiters can sometimes be an effective tool in planning and enforcement, they are generally contrary to the objectives set out in this study to lessen the burden on live music within the LMP, and contrary to how a live music venue needs to operate.

Drawing again from the Valley Precinct, a similar exercise was undertaken to understand the cost benefit analysis of acoustically treating existing music venues¹:

The order of cost ranged from approximately \$30,000 for a reduction of 9dB(A)/3dB(C) at one venue to over \$200,000 for a reduction of 3dB(A)/2dB(C) at another venue. Indicative costs to reduce noise emissions by around 15dB(A)/10dB(C) were in the vicinity of between \$100,000 to \$700,000 depending on the venue [7].

^{1 1} Managing Noise Impacts in Brisbane's Fortitude Valley Entertainment Precinct, Proceedings of Acoustics 2004
St Kilda Live Music Precinct Planning Study V1205-01-P Noise Analysis, Technical Report_A4
Noise Analysis, Technical Report Page 39 of 43



From the above, it can be seen that acoustically treating a music venue can add substantial cost, sometimes with little benefit. To that end, if a funding program were to be considered, a standardised grant would likely be ineffective for many venues and therefore each case would require a cost/benefit analysis with significant consulting work undertaken to justify such expenditure.

Risk	Preliminary Recommendation 11
Ideal autonomy of the LMP is likely to be restricted through enforcement issues.	Consider alternative measures to support live music including funding pathways to assist venue owners and operators with meeting noise requirements.



10 Summary & Conclusion

This noise analysis has considered the risk and opportunities of City of Port Phillip's proposal for a Live Music Precinct Planning Study (LMP). While the key objectives are supportable, there are a number of considerations that need to be given in addressing inherent conflict between:

- The planning scheme
- Regulatory frameworks
- Utility and perception of existing planning clauses
- Various land uses throughout the LMP

There are a number of obstacles identified that may limit the objectives and success of the LMP. While the focus of the study and objectives essentially relates to strategic planning, noise is an issue that is rooted in compliance and enforcement mechanisms, which has implications on the success and longevity of the proposal. With regard to the noise analysis, the greatest threat to the ultimate success of the LMP and its longevity is addressing how enforcement requirements limit the proposal. While this matter is a technical one, it also needs to be considered from a position of advocacy by CoPP in that it would require a 'whole of government' engagement.

Under the current Environmental Regulatory Framework, there are a number of requirements that would limit the prioritisation of the LMP. Generally, the status quo might be expected to prevail where:

- Existing venues within the LMP are already nearby to existing residential uses;
- New venues are developed within the LMP; and
- New residential uses are constructed within 50m of an existing venue.

The noise analysis indicates that the LMP will have its greatest success at a planning level by providing additional protection of existing venues and other recognised live music spaces from encroachment from residential development through the Schedules to Clause 53.06, as well as aiding approvals for new music venues by classifying of risk of impact during application stage. A number of suggestions have been made to facilitate this while balancing the 'downstream' obstacles involved with noise enforcement and the complexities that arise from mixed-use development within the LMP, including:

1. Ensuring that there is consistency across various regulatory frameworks;
2. Detailed classification of complaint data on file at Council, to determine the risk profile of certain types of music venues, and to assist definition of 'live music' that can be supported more easily;
3. The creation of Sub-precincts within the LMP, to better manage the various sensitivities within the broader LMP;
4. More appropriately scaled planning requirements, that lessens the burden on lower sensitive applications and small venues;
5. Utilising Local Laws, where the framework affords Council that autonomy to regulate noise impacts;
6. Engagement with the EPA to understand potential autonomy over outdoor events;
7. Reinforcement of the agent-of-change principle, including its practical implementation so that venue owners and the community better understand its utility;



8. Implementation of the LMP and specific venues recognised for live music through the Schedule to Clause 53.06;
9. Consideration of minimum sound insulation requirements for new developments within the LMP in addition to Clause 53.06 and regardless of the prevailing noise impacts at the time of assessment;
10. Engagement with the EPA to explore special provisions for the LMP through the Noise Protocol; and
11. Alternative measures that assist and advocate for live music venues while still controlling noise impacts on the community.

It has also been suggested that CoPP consider further studies to justify the propositions put forward, including:

- Consistency with any housing development strategies within the LMP;
- Cost analysis for venues to control noise if funding was to be considered;
- Cost burdens placed on residential developers if required to implement standardised sound insulation controls;
- History of noise complaint data to determine typical sensitivity to live music noise impacts and trading hours; and
- History of residential encroachment within the municipality that has resulted in outcomes such as venues having to change operations or close, to better understand the perceived threat of residential encroachment.

D. Stakeholder interviews

The project team understood a range of stakeholder interviews with state and local government representatives involved in policy and planning, governance and/or regulation of live music. Additional live music stakeholders were involved in a collaborative online workshop with the project team and City of Port Phillip to provide input on preliminary recommendations to support and enhance live music in St Kilda. Through this engagement process we spoke to:

- Department of Transport and Planning (interview)
- City of Merri-Bek (interview)
- Environmental Protection Authority (interview)
- Brisbane City Council (interview)
- Creative Victoria (workshop)
- Music Victoria (workshop)

Stakeholders spoke about their experiences across live music policy planning and advocacy and the rationales and aspirations underpinning Victoria's regulatory context. Interviewees also spoke to both holistic and place-specific challenges and opportunities for protecting live music through a range of policy and planning levers.

What did we learn

- Making amendments to EPA noise protocols is prohibitive due to the resources required to pass legislation change through Parliament
- Potential amendments to EPA protocols need to be based on a solid evidence base of the social and economic benefits of anticipated outcomes
- Potential amendments to the planning scheme need to be based on a solid evidence base of existing venues and probability of attracting new live music venues
- A core challenge of noise attenuation is between new buildings and existing buildings – setting acoustic treatment regulations for future development is easier than retrofitting existing buildings which is economically and technically unfeasible
- Noise complaints are significantly impacted by time of day and type of music for different venues as well as patron behaviour (i.e., nightclubs playing amplified music)
- Council needs to balance level of noise complaints with broader social and economic benefit of supporting live music, i.e., Councils need to prioritise and support live music outcomes and be able to advocate to residents and the community to counter noise complaints
- Taking a tiered approach to different areas across a precinct (i.e., noise levels and frequency and timing of live music activity) can support community buy-in as residents have more information and understanding of the implications of their location choice. Need to be clear about how and why the benchmark has been set in each tier.
- Associated interventions including improved public safety (i.e., design), enhanced public transport access are essential to supporting live music precincts.
- Noise sources in activity centres go beyond live music noise, also about traffic, services, transport, people etc. The tension of residential development and noise-generating commercial activity, the cost burdens need to be grappled with in terms of supporting vibrant activity centres.
- Increasing cost of rent, not noise complaints, is the biggest threat to live music venues.
- Councils need up to date GIS mapping of licensed premises and live music venues to inform planning processes.
- Need to consider the cumulative impact of noise from clusters of live music venues
- There is the opportunity to create a more nuanced definition of live music entertainment that better articulates the types of live music activity Council is supporting. Such a definition would need to be consistent with Victorian planning provisions and not be too prescriptive as this could lead to enforcement challenges.
- From a governance and regulation perspective there are limitations to what the Department of Transport and Planning and the Environmental Protection Authority can commit to considering in regard to changes to existing protocols and legislation to support live music in Victoria.

How was this information used

The learnings from these conversations guided the development of recommendations that are realistic, achievable, not resource intensive, and provide the opportunity for change that balance Council priorities, live music operator needs and resident needs to ensure positive outcomes for all.

E. Council Policy Review

Local Council Policies

DOCUMENT	PURPOSE	SUMMARY OF CONTENT	RELEVANCE TO THE PROJECT
Council Plan 2021-31	The purpose of the Council Plan is to outline Council's vision for City of Port Phillip and how it will be achieved.	<p>The Council Plan is driven by 5 strategic directions to achieve the vision.</p> <p>The report covers City of Port Phillip today and it's people, the plan for the City's health and wellbeing, the vision for the community and associated challenges and the plan for achieving the strategic directions.</p>	<p>The implementation of a Live Music Precinct in St Kilda has the potential to deliver on the 'Vibrant Port Phillip' strategic direction aiming to enhance Port Phillip's reputation as one of Melbourne's cultural and creative hubs.</p> <p>While live music is an essential industry to the vibrancy of St Kilda, there is a gap with indicators that directly reference live music for this strategic direction.</p> <p>Identifying indicators specific to the live music industry can contribute to the delivery of the Live Music Precinct and the delivery of 'Vibrant Port Phillip'. The indicators listed are mainly focused around employment and vacancy rates for retail properties.</p>
St Kilda Strategic Plan 2021	The purpose of this report was to identify and define current trends, challenges and opportunities in the St Kilda study area, to establish the justification for future strategic planning work. It has been informed by research and targeted stakeholder engagement.	<p>This background report identified challenges and opportunities for land use, economy & tourism, the built environment, development, housing, public space & amenity, climate change & sustainability, transport & parking, community infrastructure and social issues.</p> <p>In response to the challenges and opportunities the report proposes 12 primary and secondary recommendations that will guide the future strategic planning work in St Kilda.</p> <p>Additionally, the report covers the existing context of St Kilda with regard to demographics and existing strategic planning policy. The report also summarises findings from community engagement with stakeholders</p>	<p>The stakeholder engagement identified that the live music scene and mix of commercial and cultural activity is highly valued by the community.</p> <p>The participants attributed the decline of this activity to amenity, safety and social challenges. The social challenges were identified as homelessness, drug and alcohol abuse and community safety.</p> <p>It is important that the Live Music Precinct considers these challenges.</p> <p>The report identified that 70% of music venues in Port Phillip are in St Kilda. This reinforces the identification of St Kilda as the focal point of live music in the municipality.</p>

DOCUMENT	PURPOSE	SUMMARY OF CONTENT	RELEVANCE TO THE PROJECT
Creative and Prosperous City Strategy 2023-2026	The purpose of the Creative Prosperous City Strategy is to deliver on the Vibrant Port Phillip Strategic Direction from the Council Plan.	The report is structured around 4 key outcomes to achieve the vision. These outcomes are supported by a series of actions.	<p>The outcomes that are directly relevant to the Live Music Precinct aim to:</p> <ul style="list-style-type: none"> • Link and leverage entertainment institutions and events for the community, visitors and local business to take part in. • Continue to support, develop and further grow key creative industries (live music). • Ensure funded arts activity is focused on attracting visitors and community participation. • Connect and engage creative and business sectors through partnership, sponsorship and promotion.
Creative Industries Mapping Project June 2019	The purpose of the creative industries mapping project was to map creative spaces across the City of Port Phillip to form an evidence base to address issues related to affordability, diversity and suitability of creative spaces within Port Phillip and assist Council in effective decision making.	<p>The report outlines the key considerations for creative industries in the City of Port Phillip and their significance for the community.</p> <p>The project mapped all creative spaces across the LGA against 12 industry categories. Music had the second largest number of spaces behind Design.</p> <p>Clustering of creative industries was further analysed through neighbourhood profiles for South Melbourne, St Kilda, and Fishermans Bend.</p>	<p>The creative industries mapping gives insight into the distribution and count of music venues within the City of Port Phillip pre-Covid-19.</p> <p>Monitoring the change in the number and distribution of live music venues from this report can give an indication of the challenges facing live music venues in St Kilda.</p>

DOCUMENT	PURPOSE	SUMMARY OF CONTENT	RELEVANCE TO THE PROJECT
Live Music Action Plan 2021-2024	The Live Music Action Plan 2021–2024 outlines what Council can and will do to future-proof live music in Port Phillip and ensure it remains a priority among competing interests and the pressures of gentrification and a growing community.	<p>The report is driven by the 5 strategic directions for the City of Port Phillip.</p> <p>The report summarises key findings from community consultation, and how Council currently supports the live music industry.</p> <p>The plan identifies 3 areas of recovery essential focal points, social recovery, economic recovery and music industry recovery.</p> <p>3 outcomes are identified to achieve a robust live music scene. For each outcome a goal is identified and a set of actions with measurables and time frames.</p>	<p>The Plan includes a key action to work with the State Government, Music Victoria and industry stakeholders to explore formally establishing a live music precinct in Port Phillip. It is important that the Planning Study supports the 3 outcomes identified in the plan:</p> <ol style="list-style-type: none"> 1. A City that actively responds to the economic and social impact of COVID-19 on our local music industry. 2. A City where live music flourishes, with a robust and passionate live music ecosystem and a solid foundation for a sustainable future where live music is able to continually grow. 3. A City where the musicians and audiences, the venues and the schools, the public spaces and the rehearsal places, and our residents and businesses work together to support and create a diverse, dynamic and accessible live music scene.

DOCUMENT	PURPOSE	SUMMARY OF CONTENT	RELEVANCE TO THE PROJECT
Music Noise Investigation Procedure and Protocols	The purpose of the Music Noise Investigation Procedure and Protocols is to outline the considerations and steps to addressing a noise complaint for enforcement officers.	<p>The document outlines considerations, and contributing factors to common problems associated with noise as a result of live music.</p> <p>The document outlines what an officer should do in response to an initial complaint and to further allegations.</p> <p>At the end of the document there is a checklist to gather information to determine if the venue is complying with permit conditions.</p>	<p>The Public Space Strategy does not directly reference live music.</p> <p>There are actions associated to events which include:</p> <ul style="list-style-type: none"> • Preparing an overarching framework to support Council managing the shared use of public space in relation to events amongst other uses. • Supporting and managing community festivals, major events and commercial activity through the implementation of the events strategy, Outdoor Events Guidelines and Commercial Recreation Policy. <p>It is important that the Live Music Precinct is directly supported through the Public Space Strategy to ensure music events can operate in public spaces.</p>
Busking Permit Guidelines	The purpose of the City of Port Phillip Busking Guidelines are to outline the conditions of a busking permit.	The guidelines define busking, outline the location restrictions, activities that are not permitted and the conditions of the permit.	The Busking Guidelines prohibit the use of mains or battery powered electrical amplifiers.

DOCUMENT	PURPOSE	SUMMARY OF CONTENT	RELEVANCE TO THE PROJECT
Events Strategy 2023-2026	The purpose of the events strategy is to outline and communicate the Council's vision for events in the City of Port Phillip and how the vision will be achieved.	<p>The strategy outlines the benefits of events to the wellbeing of the community, economic development, tourism, cultural vibrancy and social engagement.</p> <p>The strategy identifies 8 policy outcomes and associated key actions to deliver the vision for events in the municipality.</p>	<p>The document references supporting local creative industries and communities through events that:</p> <ul style="list-style-type: none"> • Showcase their work • Provide partnership opportunities • Activate strategically to meet the needs of local creatives and fill gaps. <p>Specific to live music, Council aims to align event delivery with the Live Music Action Plan and the creation of live music precincts, and advocate for maximised opportunities for live music in public space.</p> <p>Additionally, the implementation of a Live Music Precinct could help to achieve the policy outcome of driving economic growth. The strategy outlines actions around prioritising economic growth through major events like the St Kilda festival and encouraging local business to leverage from local events.</p>

DOCUMENT	PURPOSE	SUMMARY OF CONTENT	RELEVANCE TO THE PROJECT
Places for People, Public Space Strategy 2022-32	The purpose of the Places for People, Public Space Strategy is to support the ongoing deliver of high-quality, multi-purpose and community driven public space in the City of Port Phillip. The strategy aims to deliver on the Council's Liveable Strategic Direction from the Council Plan.	The document outlines the need for a public space strategy, identifies the challenges facing the city in regard to public space and identifies key public spaces and outcomes to focus efforts in achieving the vision for public space in the City of Port Phillip.	<p>The Public Space Strategy does not directly reference live music.</p> <p>There are actions associated to events which include:</p> <ul style="list-style-type: none"> • Preparing an overarching framework to support Council managing the shared use of public space in relation to events amongst other uses. • Supporting and managing community festivals, major events and commercial activity through the implementation of the events strategy, Outdoor Events Guidelines and Commercial Recreation Policy. <p>It is important that the Live Music Precinct is directly supported through the Public Space Strategy to ensure music events can operate in public spaces.</p>
Music Noise Investigation Procedure and Protocols	The purpose of the Music Noise Investigation Procedure and Protocols is to outline the considerations and steps to addressing a noise complaint for enforcement officers.	<p>The document outlines considerations, and contributing factors to common problems associated with noise as a result of live music.</p> <p>The document outlines what an officer should do in response to an initial complaint and to further allegations.</p> <p>At the end of the document there is a checklist to gather information to determine if the venue is complying with permit conditions.</p>	<p>The procedure and protocols are specific to investigating music noise from venues. Pending the outcomes of the Planning Study and development of a Live Music Precinct, there may be a need to review the investigation procedure and protocols.</p>

DOCUMENT	PURPOSE	SUMMARY OF CONTENT	RELEVANCE TO THE PROJECT
Election Commitment List 2021-22	The purpose of the election commitment list is to outline what the City of Port Phillip is requesting for investment in (or changes to) assets, services, and policies that are managed by the Victorian Government.	The document outlines what Council is requesting through a summary of the issue/project and details of the request. As well as demonstrating the alignment with Council and Victorian Government Priorities.	<p>The Council requests that the Victorian Government collaborate on policy and regulatory initiatives in order to implement live music precincts to protect established and emerging live music activity in the precinct.</p> <p>Without support from the Victorian Government it will be difficult to implement the Live Music Precinct successfully.</p> <p>"Areas of focus include the simplification of regulatory processes for live music events and venues, and collaborative work on the designation and implementation of live music precincts and associated planning controls."</p>
Library Action Plan 2021-26	<p>The purpose of the Library Action Plan was to provide a framework through which to make Port Phillip Australia's best inner urban network of neighbourhood libraries that contributes to Port Phillip as a creative, liveable, prosperous and socially connected city for everyone who lives and works there.</p> <p>"Our libraries will be Port Phillip's centre of culture, creativity and connection."</p>	<p>The Library Action Plan outlines Council's vision for library services across Port Phillip and the goals associated with achieving the vision. For each goal there are a series of key actions.</p> <p>The plan is informed by engagement with the community through interviews, surveys and focus groups.</p>	<p>The plan identifies actions to support and contribute to the creative ecosystem in the City of Port Phillip. Actions relevant to the implementation of the Live Music Precinct include:</p> <p>Support delivery of Council's Live Music Action Plan by creating space for performance, rehearsal, exhibition and creative development.</p> <p>Facilitate a community-driven creative production and education program for all age groups.</p> <p>As a measure of success the plan aims to deliver a number of programs in partnership with the community, and cultural and creative practitioners.</p>

Key findings from the review of Council policies and strategies

The documents made reference to St Kilda's strong identity as a leading live music destination in Melbourne. The development of a Live Music Precinct in St Kilda was supported across almost all of the documents.

Key messages

ADDRESSING THE DECLINE OF LIVE MUSIC

The proposition of a Live Music Precinct in St Kilda is intended to respond to the decline in live music over the past 10 years. Findings from community and stakeholder engagement revealed that this was seen to be a result of amenity, safety and social challenges as well as the impacts of Covid-19.

SUPPORT FOR THE LIVE MUSIC PRECINCT

The creation of a live music precinct is supported across the documents reviewed. The Live Music Action Plan engagement summary report shows that 66% of respondents supported the draft Live Music Action Plan.

The respondents that were not supportive of the plan had concerns around potential noise impacts, the impact of large scale events and the cost to ratepayers.

BENEFITS OF IMPLEMENTING THE LIVE MUSIC PRECINCT

Implementing the Live Music Precinct would have benefits to the local economy and contribute to economic, social and music industry recovery following the impacts of Covid-19.

Considerations

VICTORIAN GOVERNMENT SUPPORT

In order for the live music precinct to be implemented Council requires support from the Victorian Government in relation to policy and regulatory initiatives.

REVIEW OF PROCEDURE AND PROTOCOLS AROUND NOISE COMPLAINTS

The procedure and protocols are specific to investigating music noise from venues. Pending the outcomes of the Planning Study and development of a Live Music Precinct, there may be a need to review the investigation procedure and protocols.

Opportunities

THE ROLE OF PUBLIC INFRASTRUCTURE

The Library Action Plan references supporting the delivery of the Live Music Action Plan by creating space for performance, rehearsal, exhibition and creative development. There are more opportunities for community infrastructure and businesses outside of the music industry to host live music events.

USING THE PUBLIC SPACE STRATEGY TO DELIVER ON LIVE MUSIC OUTCOMES

There is an opportunity to align the Public Space Strategy to more closely support the delivery of live music events in public spaces.

LIVE MUSIC INDICATORS TO DELIVER ON 'VIBRANT PORT PHILLIP'

There is an opportunity to include live music specific indicators for delivering on 'Vibrant Port Phillip' and contribute to the success of the Live Music Precinct.

F. Liquor License Review

Liquor Licensing

The majority of live music performances in small venues take place in businesses that are licensed by the Victorian Liquor Commission. Between 2019 and 2021 the number of licenses associated with live music in City of Port Phillip increased from 221 to 254¹.

Liquor control reform act

The Liquor Control Reform Act 1988 (the Act) regulates the supply and consumption of liquor in Victoria. The objects of the Act are to:

- Contribute to minimising harm arising from the misuse and abuse of alcohol;
- Facilitate the development of a diversity of licensed facilities reflecting community expectations; and
- Contribute to the responsible development of the liquor, licensed hospitality and live music industries.

Under the Act, a live music event is defined as:

An event at which takes place the creation or manipulation of sound for artistic, cultural or religious purposes, and which is performed to an audience.

Liquor licenses

Types of licenses and permits issued under the Act that specifically relate to the provision of live music include:

- General license; provide for consumption on and off the premises and the sale of packaged liquor and are usually associated with a hotel, pub or tavern.
- On-premises license; enable the sale and consumption of alcohol for consumption on the premises and are usually associated with nightclubs and bars.
- Restaurant and cafe license; allow alcohol to be supplied and consumed on these types of premises provided that the predominant activity is the serving of meals also to be consumed on the premises.
- Full club license; permit the supply of alcohol to members, guests and gaming visitors for consumption on the premises and to take away.
- Restricted club license; are similar to the above but do not allow the sale of alcohol to be taken away and consumed off the premises.
- Packaged liquor license; enable the sale of liquor for consumption off the premises and are typically associated with the liquor departments of supermarkets, specialist bottle shops and bulk liquor retailers.
- Late night license; enable general, on premises and packaged liquor outlets to trade from 11.00 pm to 1.00 am or later as specified by the license.

It is a condition of every license that authorises the supply of liquor outside of ordinary trading hours that the licensee does not cause or permit undue detriment to the amenity of the area.

The Act provides penalties for failing to comply with license conditions or the Act including unlicensed sale of liquor, supplying liquor to intoxicated persons and supplying liquor to minors.

Applications for a liquor license must demonstrate through a community impact assessment that consultation has been undertaken with the local community regarding the proposed application and that any social and economic impacts of the proposed application on the local community have been identified.

Applications for a liquor license are dealt with on a

1 Music Victoria 2022

case-by-case basis. The cumulative impact of licensed premises is not a relevant consideration under the Act.

Amendments to the act

In 2021, the Victorian Parliament passed the Liquor Control Reform Amendment Act 2021 which amended parts of the Liquor Control Reform Act 1988 which affect how liquor licensees operate their licensed premises. This includes the expansion of activities authorised under a club license and the ability for an owner or mortgagee of a licensed premises to cancel a license when the licensee has been legally evicted from the premises.

Further to this, the Liquor Control Reform Interim Regulations 2021 prescribes conditions that apply in relation to live music events held at licensed premises at which a person under the age of 18 may be present. Specific conditions include:

- Providing accessible and free telephone facilities for minors
- Live music events must finish by 11pm
- Minors under 12 years of age must be accompanied by an adult
- Published advertisements must include start and finish times for events
- The licensee must provide licensed crowd controllers dependent on venue capacity, and ensure at least one is female
- No re-admission during events

As of 1 July, the regulatory, investigative and disciplinary functions related to liquor licensing are transitioning to the Victorian Liquor Commission. The Commission is supported in its functions by the Department of Justice and Community Safety.

Councils role

Under the Act, the Council is not a license issuing authority but is an authority referred to in the process of license issuing.

PLANNING PERMISSION

While the Council is not a license issuing authority, a planning permit is generally required for the sale and consumption of liquor in the municipality. A planning permit must be obtained from the Victorian Commission for Gaming and Liquor Regulation (VCGLR) prior to application for a liquor license.

Council must provide notice of any planning permit applications for licensed businesses to:

- The owners of adjoining land
- Anyone who may experience material detriment resulting from the permit grant
- Anyone as required under their planning schemes.

For a hotel, tavern or nightclub that is to operate after 1.00 am, Council must refer any planning permit applications to the VCGLR and give notice of the application to the Chief Commissioner of Victoria Police.

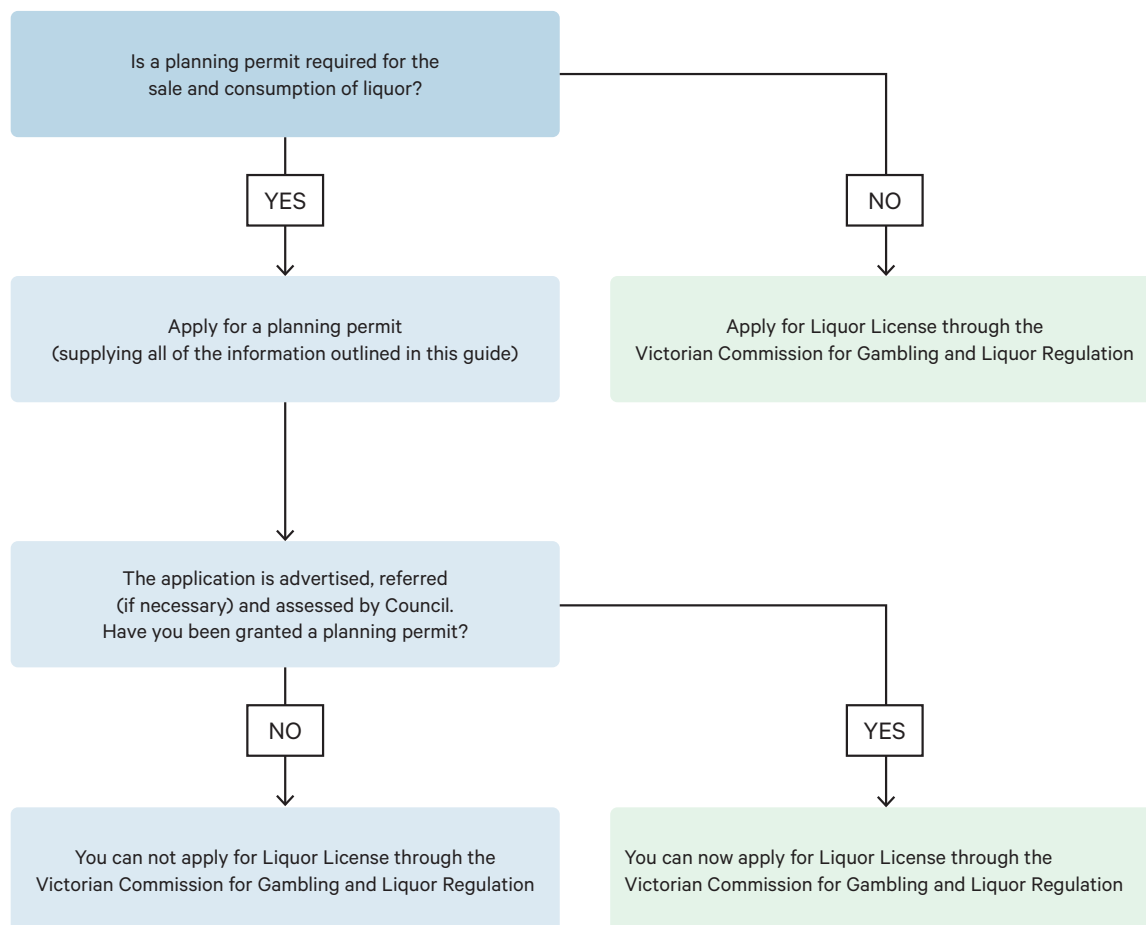


Figure 16. Process for obtaining a Liquor License.

This page left intentionally blank

G. Assessment Framework: Live Music Precinct Success Factors

The following section describes the various success factors for live music precinct identified through our research which have been grouped under the following categories:

- Spatial attributes
- Venue attributes
- Governance attributes

These attributes informed the development of the proposed assessment framework outlined in table 4.

Spatial attributes

Diversity

Successful Live Music Precincts are comprised of a variety of venues, spaces and businesses that support the local live music industry directly and indirectly.

Direct support is provided through spaces for music performance, production, collaboration and learning. Live music does not necessarily need to be the primary function of these spaces as businesses outside of the music industry can offer their space for performances, for example a cafe could host a live musicians once a week.

Live music can be supported in-directly through local businesses providing complimentary offers to a person's visit to the precinct. For example, hospitality venues offer a place to dine before heading to a show. Having a range of businesses widens the audience for potential visitors to the precinct. Businesses and venues can mutually benefit from the visitors they attract and contribute to the economic development of the precinct.

Venues and spaces should be of varying capacity, size, and cover a range of genres across the precinct. There should be a mix of indoor and outdoor venues and spaces should be affordable for venue operators and musicians. This diversity allows for a variety of performances and experiences.

Live Music Precincts can benefit from having key anchors and attractors that bring people to the precinct.

Safety

The design of the public realm is a key element in ensuring that entertainment precincts are safe and inviting for everyone. This can be achieved through a range of design outcomes including lowering speed limits in areas with high foot traffic, enhanced lighting to support night-time activities, and providing rest/recovery spaces for patrons. Strategies to support pedestrian activity are key to allowing patrons to safely navigate the precinct as they travel between venues.

Public transport & ride-sharing

Successful Live Music Precincts provide high quality, regular public transport that is in close proximity to live music venues. This allows patrons to easily access, and move within, the precinct. Expanded hours and higher frequency services during peak times are needed to improve precinct accessibility. The presence of ride-sharing pick up zones that are appropriately located can assist in allowing patrons to safely and easily come and go from the precinct.

Accessibility

Successful Live Music Precincts ensure that the public realm is accessible to all genders, abilities, cultural backgrounds and ages.

Venue Attributes

Venue operation

Successful live music venues operate in accordance with regulations, to support local musicians and with consideration for local authorities, residents and the environment.

It is important that venues adhere to regulations for permits and including liquor licensing for the protection of patrons, musicians and the venues.

In creating a supportive environment for local musicians, it is important that live music venues adhere to performance agreements.

Building positive relationships with local authorities and residents is essential to mitigating conflict over noise issues.

Sound management

Successful live music venues have high quality sound management systems to reduce the impact of noise. This extends to management of complaints and facilitating and maintaining good relationships with neighbours and enforcements.

Accessibility

Successful live music venues are accessible to all genders, abilities, cultural backgrounds, ages and socio-economic backgrounds.

Successful live music venues are designed to allow for the audience and musicians to safely and efficiently enter and exit the venue.

Safety

Successful live music venues have systems in place to ensure the safety of patrons. It is essential that venues have a plan in responding to any form of abuse, conflict or harmful conditions in their venue.

The safety of patrons should be a top priority for all venues, especially when hosting events where minors are present or with large crowds.

Diversity and inclusion

Successful live music venues are inclusive through booking performers with consideration to equal opportunity regardless of gender, ability and cultural background.

Governance attributes

Live music policies & strategies

Successful Live Music Precincts have Council policies that provide better protection for live music venues and clear and consistent guidelines for new developments.

Council strategies should clearly articulate the vision for the live music precinct and include a comprehensive road map of how the vision will be achieved with targets that are measurable. The strategies should be informed by industry, community and stakeholder engagement to ensure the vision aligns with what is important to those in the community and within the music industry.

It is important that the policies and strategies are evaluated regularly and updated in response to emerging issues and opportunities as the precinct evolves.

Council's advocacy role is also important in relation to State Government policies, strategies and regulations that impact live music.

Stakeholder engagement

Successful Live Music Precincts are established through regular Council run stakeholder engagement to promote positive relationships and clear communication between stakeholders, and to allow for precinct opportunities and issues to be identified and addressed.

Council support

Successful Live Music Precincts are supported by Council providing venues and musicians with the information, guidance and exposure they need to succeed.

Direct funding

Successful Live Music Precincts are supported through the provision of government funding and grants for live music venues and musicians. Local Government funding and grants can provide the means to overcome the economic barriers associated with operating a live music venue. These barriers include land rents, maintenance costs, development approval costs, and licensing fees.

Council Working Group

Establishing a working group can allow for efficient and effective management of the precinct and assist in managing the planning, development and operation of the precinct.

What does success look like?

The following table outlines success factors for each of the key attributes. This framework will be used to assess the performance of St Kilda today.

ATTRIBUTES		SUCCESS FACTORS
SPATIAL ATTRIBUTES	Diversity	<p>Diversity of live music industry spaces within the precinct</p> <ul style="list-style-type: none"> • There are different sized spaces for live music performance. • There are indoor and outdoor spaces for live music performance. • The precinct showcases a diversity of musical genres. • Businesses that are part of the wider music ecosystem including spaces for rehearsal, production, teaching and associated services such as equipment hire. • Musicians are able to access affordable spaces. • There are key venues that serve as anchors and attractors for the area. <p>Diversity of other uses within the precinct</p> <ul style="list-style-type: none"> • There is a variety of complimentary uses in the precinct including hospitality venues (cafes, bars and restaurants), shops, galleries, theatres, etc. • Community facilities include spaces that can be used for live music performance, rehearsal and production. • Other businesses work with the live music industry and live music venues to host and support live music.
	Safety	<ul style="list-style-type: none"> • Pedestrian safety is prioritised within the precinct through strategies such as lower speed limits on streets, safe pedestrian crossings, elimination of pedestrian hazards and lighting. • The precinct provides rest and recovery spaces for patrons. • The precinct is a safe and welcoming place for all.
	Public transport & ride-sharing	<ul style="list-style-type: none"> • Public transport services are regular and reliable. • There are increased services during peak periods and late at night. • Public transport is easily accessible from all parts of the precinct. • There are ride-sharing zones appropriately located to allow people to leave the precinct easily and safely.
	Precinct accessibility	<ul style="list-style-type: none"> • The public realm within the precinct is accessible to all genders, abilities, cultural backgrounds, ages and socio-economic backgrounds.
	Venue operation	<ul style="list-style-type: none"> • Music venues have a clear understanding of the regulations that apply to their venue. • Music venues operate in compliance with the relevant regulations. • Music venues have designated loading zones to allow for safe bump-in and bump-out processes.

Table 4. Key attributes and success factors of a Live Music Precinct.

ATTRIBUTES		SUCCESS FACTORS
VENUE ATTRIBUTES	Sound management	<ul style="list-style-type: none"> • Music venues implement acoustic attenuation strategies to reduce the impact of noise.
	Accessibility	<ul style="list-style-type: none"> • Live music venues are designed to allow all audience members and musicians to safely and efficiently access the venue.
	Safety	<ul style="list-style-type: none"> • Live music venues are safe and welcoming places for all. • Live music venues have strategies in place to respond to abuse of any kind. • Live music venues have strategies in place for events where minors are present. • Live music venues have strategies in place for dealing with large crowds.
	Diversity and inclusion	<ul style="list-style-type: none"> • Live music venues book performers with consideration to equality of genders, abilities and cultural backgrounds.
GOVERNANCE ATTRIBUTES	Live music policies and strategies	<p>Policies support live music venues through:</p> <ul style="list-style-type: none"> • Amending noise regulations to better facilitate the performance of live music. • Noise regulations that easily facilitate the performance of live music. • Requiring new venues and residential developments to demonstrate acoustic attenuation measures. • Clear and consistent guidelines that are comprehensible to venue operators, musicians, residential developers, residents and enforcement. <p>Council strategies that:</p> <ul style="list-style-type: none"> • Clearly communicate the vision for the Live Music Precinct. • Outline targets and measurables in order to deliver on the vision. • Are informed by community and stakeholder engagement. • Are regularly evaluated and updated to make sure they are addressing issues and opportunities as the Live Music Precinct evolves.
	Stakeholder engagement	<ul style="list-style-type: none"> • Community and stakeholder engagement is undertaken and serves as an ongoing forum to bring venue operators and musicians, together residents, businesses and other levels of government to enhance open and positive relationships.
	Council support	<ul style="list-style-type: none"> • Council provides resources and information for live music venues and musicians to access support and be guided through any application processes. • Council organises and assists with public events. • Council provides marketing support to live music venues, potentially through the form of an online gig guide. • Council facilitates mentoring programs for live music venues and musicians and facilitates networking opportunities.
	Council funding	<ul style="list-style-type: none"> • Council provides funding to live music venues and musicians. • Funding opportunities are effectively communicated to music venues and musicians and are easy to apply for.
	Council Working Group	<ul style="list-style-type: none"> • Council has an established Working Group or similar to manage the planning, development and operation of the precinct.

Hodyl & Co





St Kilda Live Music Precinct Planning Study

Stage 2: detailed investigations & recommendations

Prepared by Hansen Partnership
16 April 2024

© Hansen Partnership 2024.

This document has been published by
Hansen Partnership Pty Ltd.

Hansen Partnership

Level 10 150 Lonsdale St
Melbourne VIC 3000

T 03 9654 8844

E info@hansenpartnership.com.au

W hansenpartnership.com.au

ABN 20 079 864 716

This document is copyright. Apart from any use as permitted under the Copyright Act 1968, no part may be reproduced by any person or process without the prior written permission of Hansen Partnership.

Contents

1.	Context & role of report	3
1.1.	Project scope.....	3
1.2.	Stage 2 Project aims & guiding principles.....	4
1.3.	A brief history of live music in St Kilda	6
2.	Stage 1 documentation review: overview	7
2.1.	Overview of legislative framework	8
2.2.	Existing Port Phillip Planning Scheme policy framework	10
2.3.	Live music entertainment venues and the Port Phillip Planning Scheme.....	15
3.	Commentary on associated background documents.....	17
3.1.	Live Music Action Plan: 2021-24 (2021)	17
3.2.	St Kilda Live Music Precinct Policy (2023)	18
3.3.	Spatial Economic & Employment Framework (2023)	19
4.	Review of Stage 1 SKLMP Boundary	20
4.1.	Methodology for SKLMP boundary review	23
	Stage 1 Report proposed use of potential sub-precincts within SKLMP	24
	Stage 1 Report – proposed expansion to SKLMP boundary	25
	Map legend for inset plan analysis maps	26
	Application of buffer area of public land	27
	St Kilda Station / Metropool Apartments	28
	Newmarket Hotel, 36 Inkerman Street, St Kilda	29
	West Beach expansion	31
	General boundary refinements	32
	SKLMP boundary: comparative analysis map.....	39
	Recommended Stage 2 SKLMP boundary.....	40

5.	Detailed Stage 1 documentation review	41
5.1.	Stage 1 Planning Propositions: review	41
	Proposition 1: Use of Schedule to Clause 53.06	41
	Proposition 2: undertake further acoustic analysis	42
	Proposition 3A: apply Clause 53.05 to venues of frequent use	43
	Proposition 3B: apply Clause 53.05 to venues of infrequent use	45
	Proposition 4A: update local planning policy framework	46
	Proposition 4B: clarifying definition of 'live music entertainment'	48
5.2.	Additional planning considerations	49
	Planning consideration 1 – technical noise attenuation analysis	49
	Planning consideration 2 – live music entertainment venue register	50
	Planning consideration 3 – additional economic and social research	50
	Planning consideration 4 – residential use at upper levels in 'core area'	51
	Planning consideration 5 – designation of Public Open Spaces within the SKLMP	51
6.	Current guidance: Planning Scheme implementation	53
6.1.	PPN61: Licensed premises: Assessing cumulative impact	53
6.2.	PPN81: Live Music and Entertainment Noise	54
7.	Stage 2 Planning Scheme Amendment implementation	56
7.1.	Provision of positive policy support for SKLMP	57
7.2.	Proposed Schedule to Clause 53.06	58

Appendices

Appendix 1: CoPP Preliminary SKLMP Boundary

Appendix 2: Comparison of CoPP Preliminary SKLMP boundary & Hansen's proposed revisions

Appendix 3: Stage 2 SKLMP boundary

Appendix 4: Planning Scheme Amendment documentation

1. Context & role of report

Hansen Partnership (Hansen) have been engaged by the City of Port Phillip (CoPP) to assist with the formal implementation of the St Kilda Live Music Precinct (SKLMP) within the Port Phillip Planning Scheme. This scope of works is referred to as Stage 2. Stage 1 background investigation and analysis work was prepared by Hodyl & Co for the CoPP, in partnership with Echelon Planning and Enfield Acoustics in 2022¹.

1.1. Project scope

The project scope broadly involved the following tasks:

- **Stage 1 documentation review** involving analysis of identified issues, challenges, opportunities, and actions.
- **Detailed testing and analysis of key Stage 1 recommendations** including:
 - Proposed expanded Stage 1 precinct boundary for the SKLMP.
 - Proposed use of sub precincts within the SKLMP.
 - Proposed use of Clause 1.0 of the schedule to Clause 53.06 to designate the SKLMP as an area where Clause 53.06 applies (Stage 1 Proposition 1).
 - Alternative acoustic attenuation standard to noise-sensitive residential uses within the SKLMP, in combination with advocacy to the State Government for changes to the Environment Protection regulations to facilitate this outcome (Stage 1 Proposition 2).
 - The proposed use of Clause 3.0 of the schedule to Clause 53.06 to expand the definition of a 'live music entertainment venue' to apply to select venues used for frequent live music performances and live music activities (Stage 1 Proposition 3A).
 - The proposed use of Clause 3.0 of the schedule to Clause 53.06 to apply to the select music venues currently used for infrequent live music events (Stage 1 Proposition 3B).
 - The proposed use of the Local Planning Policy Framework to formally identify the SKLMP and prioritise the establishment of live music entertainment venues within the precinct, while also applying the 'agent of change' principle (Stage 1 Proposition 4A).
 - The definition of 'live music entertainment' to specifically exclude amplified pre-recorded music (Stage 1 Proposition 4B).
- **Develop Stage 2 recommendations** as part of the proposed implementation of the SKLMP into the Port Phillip Planning Scheme while ensuring recommendations align with State and local planning policies.
- **Document Stage 2 analysis and recommendations**, and ensure the report is clear and concise in summarising the methodology, detailed analysis, well-justified recommendations, and draft planning provisions.
- **Drafting of planning scheme provisions** for the Port Phillip Planning Scheme using a robust and justifiable suite of VPP planning tools and policies to appropriately implement the SKLMP.
- **Stakeholder engagement** with key stakeholders, including the Department of Transport and Planning (DTP) and the Environmental Protection Agency (EPA) on the proposed scope and approach to the implementation of the SKLMP into the Port Phillip Planning Scheme.

¹ - St Kilda Precinct Planning Study Report, Hodyl & Co, Echelon Planning and Enfield Acoustics. July 2022

1.2. Stage 2 Project aims & guiding principles

The review of the Stage 1 documentation and the draft planning propositions forms the basis of Stage 2. In noting that, the Stage 1 Report covers a range of issues and considerations relating to matters within and beyond the realms of town planning, it is reiterated that the scope of the Stage 2 engagement only relates to and addresses planning and Planning Scheme related matters.

The aim of the report is to 'bridge the gap' between the Stage 1 identification of 'issues and opportunities', and the findings and recommendations documented in this report. Specifically, Stage 2 focusses on the appropriate implementation of the SKLMP and associated planning policies within the Port Phillip Planning Scheme, in line with current and relevant State Government guidance on the appropriate use of planning controls.

This report primarily functions to:

- Identify potential information gaps or implementation issues with the Stage 1 Report and appendices.
- Provide commentary on related reports and documentation which influences the potential implementation of the SKLMP into the Port Phillip Planning Scheme.
- Provide a summary of current State Government guidance relating to the implementation of the SKLMP within the Port Phillip Planning Scheme.
- Provide an explanation of the methodology for the review and confirmation of the proposed SKLMP boundary.
- Provide a summary and strategic justification of proposed the implementation of the SKLMP and the associated planning policy framework within the Port Phillip Planning Scheme.

A number of guiding principles have been devised to ensure Stage 2 remains focused on the Planning Scheme implementation and associated planning considerations. This also functions to highlight that live music venues operate in a complex legislative and regulatory environment. Live music entertainment venues and music noise intersects with several policy and regulatory areas, including planning, noise, liquor licensing, building, local laws and local policies, where many aspects can operate outside of the planning legislative environment.

Stage 2 investigations seek to implement positive strategic policy support via newly drafted Clauses and Policies within the Port Phillip Planning Scheme. The nominated Stage 2 guiding principles are:

- Ensure Stage 2 focuses on the broader benefits of seeking to include the SKLMP and associated policy support within the Port Phillip Planning Scheme as a designated precinct where live music entertainment venues are specifically encouraged.
- Acknowledge that the implementation of the SKLMP into the Port Phillip Planning Scheme framework cannot address all complex land-use and live music entertainment venue operation issues, given that planning is only part of the overall legislative framework, briefly outlined in Section 2.1.
- A detailed noise analysis can be undertaken once the SKLMP is identified and strategically justified in the Planning Scheme.
- Ensure that proposed policy content assists with the management of land-use and the implementation of the 'agent of change' principle by requiring applications to be considered on a case by case basis (i.e. either a new live music entertainment venues or new noise sensitive residential use).

(continued)

- Accept that there are operational limitations with *Clause 53.06 Live Music Entertainment Venues*, including:
 - Clause 53.06 has no influence over existing sensitive residential uses within proximity of existing live music entertainment venues.
 - Clause 53.06 applies to an application required under any zone of this scheme to use land for a live music entertainment venue, or to construct a building or construct or carry out associated works. An example of where the Clause may not apply is where live music is provided ancillary to a 'food and drink premises' which is as-of-right within the Commercial 1 Zone (C1Z). In such circumstances, the EPA Regulations, Local Laws, and Liquor Licencing are relevant considerations, which require venues to comply with:
 - The EPA Noise Limit and Assessment Protocol for the control of noise from commercial, industrial and trade premises, and entertainment venues 2021 (Noise Protocol).
 - Footpath Trading Permits issued under the Local Law.
 - Liquor Licences issued by Liquor Control Victoria (LCV) in support of the Victorian Liquor Commission under the Liquor Control Reform Act 1998 and regulations relating to the supply and consumption of liquor in Victoria.
 - Although Clause 53.06 addresses new live music entertainment venues, the schedule to the Clause does not provide a way to implement a standard noise attenuation design response to address the Environment Protection Regulations under the Environment Protection Act 2017 for:
 - New sensitive residential uses with an aim to protect the opportunity for future live music entertainment venues, or;
 - For new live music entertainment venues to protect existing sensitive residential uses.
 - Clause 53.06 does not address liquor use but a planning permit is typically required under Clause 52.27 to use land to sell or consume liquor.
 - Clause 53.06-3 includes a requirement for a noise-sensitive residential use to align with the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017. In this content it is highlighted that the intent of the SKLMP Planning Study and subsequent planning controls to be implemented are intended to support, not contradict, EPA regulations.
- These issues do not preclude the broader benefits of seeking a Planning Scheme Amendment to implement the SKLMP and associated policy framework within the Port Phillip Planning Scheme to support and encourage live music entertainment venues with targeted areas of St Kilda.
- The SKLMP covers both public and private land. For all outdoor live music entertainment related events held on public land, Council will hold ultimate control over whether these activities potentially cause noise impacts through licencing and lease arrangements. In this context, the proposed planning policy framework can acknowledge public land, but the ultimate responsibility falls to Council (i.e. outside of the planning system), to ensure such events are appropriately managed and delivered to avoid noise and other amenity impacts.

1.3. A brief history of live music in St Kilda

It is without question St Kilda's live music scene has a significant legacy which is recognised nationally and internationally. This recognition is strongly focused on the emergence of Melbourne's nascent punk/post-punk scene of the 1970's and early 1980's, pivotally centred around venues such as The George Ballroom, St Kilda. One particularly notable band was The Boys Next Door, which included members Nick Cave, Roland S. Howard and Mick Harvey; each who have since gone on to significant international acclaim, through solo careers and via bands such as The Birthday Party, Nick Cave and the Bad Seeds, and The Dirty Three. The City of Port Phillip highly values its connection to the music industry. This is demonstrated by the naming of a local laneway in honour of the late Roland S. Howard, a respected local music figure. Likewise, other Australian artists such as Paul Kelly and Dead Can Dance had their modest beginnings in the St Kilda live music scene, before rising to international acclaim.

As an observation of the now legendary St Kilda music scene of the 1980's and 1990's, it was able to flourish based on the local demographics, which consisted of a community of artists, musicians and students who were attracted by affordable rent and nightlife. With its numerous live music venues, pubs and restaurants, it ensured St Kilda became a key nightspot destination in Melbourne, and often preferred over Richmond, Fitzroy and the CBD. Consequently, St Kilda nightlife was extremely vibrant and busy during the decades of the 1980's and 1990's.

However, in recent decades St Kilda's nightlife and live music scene has been in a state of gradual decline, although key venues remain such as: The Palais, The Espie Gershwin Room and The Prince Bandroom. These are further supported by smaller boutique venues such as The Vineyard, Dogs Bar, George Lane, The Fyrefly, Memo Music Hall, Lost For Words, and Jono's Piano Bar to name a few. A key factor of influence for the gradual diminishing of St Kilda's nightlife and live music scene was the deregulation of liquor licencing laws in the late 1990's. That legislative change resulted in the role of St Kilda as a nightspot destination being undermined, as a proliferation of smaller nightspot venues were established across inner Melbourne. This significant change in Melbourne's nighttime economy during the late 1990's and early 2000's was also coupled with St Kilda going through a period of transition and gentrification. With rising rents, many of the local artists, musicians and students moved on, while numerous venues were closed or refurbished and re-purposed for a new clientele. These factors have had the combined effect of gradually diminishing the vibrancy and activity of St Kilda's nightlife and associated live music scene through to today.

The above paints a brief picture of the evolution of St Kilda live music scene over recent decades. However, the objective of establishing a St Kilda Live Music Precinct is not to replicate historical conditions. Rather, it is about developing appropriate planning policy mechanisms which can assist in supporting live local music and allowing opportunity for a new music scene of today to establish and flourish. By seeking to develop positive policy support for both small and large scale venues, it will assist in fostering the growth and development of a new generation of musicians, as well as hosting established artists of local, national and international status.

2. Stage 1 documentation review: overview

As part of the Stage 2 scope of works, a desktop review of the Stage 1 Report and appendices has been undertaken. This review has focused on the Stage 1 commentary and propositions relating to potential Planning Scheme implementation. This review seeks to determine whether there are any critical issues or information gaps which need to be addressed prior to the implementation of the SKLMP into the Port Phillip Planning Scheme. The review of the Stage 1 Reports included a broad level review of a number of the background reports which underpin and inform it, and included:

- Appendix A: Planning Technical Report, by Echelon Planning (V3, 28 June, 2023)
- Appendix B: Planning Proposition Report, by Echelon Planning (V3, 28 June, 2023)
- Appendix C: Noise Analysis Technical Report, by Enfield Acoustics (24 May, 2023)²

Stage 1 has identified planning issues and opportunities, as well as additional concerns that fall beyond the scope of Stage 2. Stage 2 functions to delve into planning issues and opportunities in greater depth. A review summary of the Stage 1 Report and appendices is as follows:

- Although the main Stage 1 Report is titled *St Kilda Live Music Precinct Planning Study Report*, it is noted to cover a significantly wider scope than Planning Scheme related considerations alone.
- The Stage 1 Report documents that the planning and regulatory framework for live music and potential impacts for music noise is complex, and highlights the planning and regulatory environment for live music and music noise intersects with several policy and regulatory areas, including planning, noise, liquor licensing, building, and municipal strategies and policies.
- The Stage 1 Report and appendices build upon the preliminary SKLMP boundary developed by Council, but making some notable variations, including the designation of a number of sub-precincts, and an expansion of the boundary to include all Mixed Use Zone (MUZ) land within the Greeves Street Mixed Activity Precinct (refer to Page 23 of the Stage 1 Report).
- It is further noted that the Stage 1 Report and appendices stop short of making clear recommendations for proposed Planning Scheme implementation. Instead, they put forward several propositions for further investigation. These propositions constitute the focal point of the Stage 2 scope of works.

As an overarching observation of the Stage 1 Report and appendices, it is considered to be a detailed and robust document insofar as it provides a fine grain analysis of the types of issues and opportunities facing the establishment of the SKLMP under *Clause 53.06 Live Music Entertainment Venues*, both within and outside of the Planning Scheme.

The Stage 1 Report and appendices refrains from offering explicit implementation recommendations; instead, they present a set of 'planning propositions'. A key focus of the current scope of works is to undertake a review of the nominated 'planning propositions' (refer to Section 4.1 of this report), with a view to making clear recommendations relating to formal implementation within the Port Phillip Planning Scheme and preparing necessary drafts of required Planning Scheme amendment documentation.

Further targeted analysis and testing was conducted, with findings and outcomes documented in following sections of the report. This methodology is discussed further in Section 3.0.

² NOTE: this report was reviewed from a generalist planning (i.e. non-technical) perspective.

2.1. Overview of legislative framework

The framework regulating live music venues primarily revolves around three key Acts, including:

- *The Planning and Environment Act 1987* - the purpose of which is to establish a framework for planning the use, development and protection of land in Victoria.
- *The Environment Protection Act 2017* - which is to prevent pollution and environmental damage by setting environmental quality objectives and establishing programs to meet them.
- *The Liquor Control Reform Act 1998* - which is the primary piece of legislation regulating the supply and consumption of liquor in Victoria.

This framework consists of interconnected systems of controls that overlap, meaning a change in one will affect the others. However, it is acknowledged that the City of Port Phillip has the authority to only make changes to the Port Phillip Planning Scheme, which is the main focus of this Stage 2 Report. In recognition of the broader legislative framework, Stage 2 work has sought to ensure that proposed modifications to Port Phillip Planning Scheme to implement the St Kilda Live Music can work with and alongside other Acts.

Environmental Protection Authority (EPA) Regulations

Entertainment venue noise is regulated by Part 5.3, Division 4 of the Environment Protection Regulations 2021 (the Regulations). The objectives of the Regulations are to further the purposes of, and give effect to, the Environment Protection Act 2017 which is administered by the EPA.

The Regulations are supported by the Environment Protection Authority's publication 1826.4: Noise limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues (May, 2021) (the Noise Protocol).

The Noise Protocol prescribes the methodology for assessing effective noise levels to determine unreasonable noise under the Regulations. Part II of the Noise Protocol applies to entertainment venues and events.

Liquor licensing

The Liquor Control Reform Regulations 2023 (the Liquor Control Reform Regulations) were made on 25 July 2023 and operate from 29 July 2023.

The Liquor Control Reform Regulations are made under the Liquor Control Reform Act 1998 (the Liquor Control Reform Act). The Liquor Control Reform Act and Liquor Control Reform Regulations are the key components of the regulatory framework for liquor in Victoria. The Liquor Control Reform Regulations prescribe several measures including:

- Information requirements for licence applications (or to vary current licences).
- The setting of consistent and equitable liquor licence application and renewal fees.
- Minimum standards for security cameras required as a condition of licence.

The Victorian Liquor Commission is responsible for the regulation of liquor in Victoria. It is supported by Liquor Control Victoria in the Department of Justice and Community Safety.

Australian Building Code

The Australian Standard for Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors – AS 2107:2000 (AS2107) standard is primarily intended to be applied to steady noise sources, such as road traffic, and mechanical plant noise. This standardised measure does not acknowledge that music noise presents variable noise characteristics – specifically low frequency and rhythmic qualities that can interrupt sleep.

The noise standards in the Regulations were developed specifically to protect residents from unreasonable and aggravated noise from entertainment venues. The Regulations recognise that music noise can have a more significant effect on residents than other urban noises.

It prescribes separate noise limits for the day and evening period and for the night period for an indoor venue, taking into consideration the characteristics of music noise which need to be assessed differently to more broadband noise sources. The standards in the Port Phillip Planning Scheme Clause 53.06-3 Live Music Entertainment Venues for a noise sensitive residential use operate together with the Part II of the Noise Protocol applies to entertainment venues and events to protect the amenity of residents while inside, when windows and external doors are closed.

Planning

The Planning and Environment Act 1987 (the Act) requires that a planning scheme:

- Must seek to further the objectives of planning in Victoria within the area covered by the scheme.
- May make any provision that relates to the 'use', 'development', 'protection' or 'conservation' of any land in the area.

Several Port Phillip Planning Scheme provisions acknowledge the cultural value of music to the municipality. The Planning Scheme supports and protects existing and proposed entertainment venues, whereby the existing framework is covered in more detail in the following section of this report.

The Minister for Planning has the overall responsibility for the Act and the planning system. The City of Port Phillip is generally both a planning authority and responsible authority, responsible for preparing and administering the Port Phillip Planning Schemes.

2.2. Existing Port Phillip Planning Scheme policy framework

The existing policy framework of the Port Phillip Planning Scheme is relevant to frame the Stage 2 review and analysis. A summary of key themes, strategic directions, clauses and policies are briefly outlined below:

Clause 02.01 - Context

This local level Clause outlines a high-level context for the CoPP, including:

- Is an inner-city area of approximately 21 square kilometres and 11 kilometres of bay foreshore.
- Traditional owners of the land of Port Phillip are represented by the Bunurong Land Council Aboriginal Corporation (BLCAC) and Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation (WWWCHAC).
- CoPP is the most densely populated municipality in Victoria with more than twice the population density of the metropolitan Melbourne average.
- One of the earliest European settlements in the metropolitan area, CoPP contains neighbourhoods each with its own character, defined by heritage buildings, strip shopping precincts and treelined streets.
- CoPP contains some of the most popular tourist destinations in metropolitan Melbourne, attracting more than 2.8 million visitors each year.

Clause 02.02 - Vision

This local level Clause outlines details relating to the municipal vision for the CoPP, including:

- The City of Port Phillip Plan 2017 – 2027 nominates a vision for Port Phillip to be 'Beautiful, Liveable, Caring, Inviting, Bold and Real'.
- It further notes that: 'The vision is shaped by a desire to celebrate history, protect character, and encourage inclusion and creativity, while planning for the future of a dynamic and evolving City'.
- As relevant to the current project, it further nominates that Port Phillip will be a city:
 - That is creative and prosperous with a dynamic economy that connects and grows business as well as bringing arts, culture and creative expression to everyday life.
 - Of vibrant activity centres and employment areas, providing high accessibility to goods and services and prosperous conditions for all residents and businesses.
 - That is inclusive; where community diversity and harmony are sustained and encouraged, and where members of our community feel connected through a strong sense of place and can participate in community life.
 - With a healthy and safe environment for residents, workers and visitors.

Clause 02.03-1 Settlement – Activity Centre

This local level Clause outlines details of activity centres within the CoPP. The St Kilda (Fitzroy/Acland Streets) Major Activity Centre is specifically relevant to the current matter. Further outlined details include:

- St Kilda (Fitzroy/Acland Streets) are nominated as one of four Major Activity Centres in Port Phillip.
- Port Phillip activity centres perform a range of retail, commercial, entertainment and housing functions.
- Individual distinctiveness and diversity of the activity centre plays an important part of Port Phillip's identity, which needs to be protected and reinforced.
- Such activity centres have an important role in supporting and hosting visitation, including local and regional entertainment, while cultural tourism should continue to be provided and managed to minimise adverse effects on amenity.
- Council supports the distinct identity and social and cultural role of each centre.

Clause 02.03-6 Economic development

This local level Clause outlines details of economic development considerations for the St Kilda (Fitzroy/Acland Streets) Major Activity Centre including:

- The range of entertainment uses, facilities and festivals provided across key precincts are an important part of the local economy and contribute to the municipality's strong cultural identity.
- A key challenge is in balancing the social, economic and cultural benefits of tourism and entertainment uses (particularly live music venues, licensed premises and gaming venues), with minimising social harm and protecting residential amenity to ensure that Port Phillip continues to be a desirable place to visit and to live.
- Port Phillip has a vibrant arts scene, and it is important that arts and cultural activities are supported.
- Supporting an environment in which arts and creative industries can flourish.
- Supporting a local tourism industry and entertainment precincts that respect safety, amenity and the natural environment.

Clause 02.04 Strategic Framework Plans

This local level Clause contains a number of thematic based Framework Plans which are to be read in conjunction with designated strategic directions of Clause 02.03. Specifically, a number of the framework plans map out the extent of the St Kilda (Fitzroy/Acland Streets) Major Activity Centre, as well as the Greeves Street Mixed Use and Office area.

Clause 11.03-1L-06 St Kilda Major Activity Centre

This local level Clause outlines targeted details for the St Kilda (Fitzroy/Acland Streets) Major Activity Centre including:

- Contains an objective to reinforce the St Kilda Major Activity Centre as a significant retail, recreational, tourism, entertainment and leisure destination, whilst managing the cumulative impacts on local amenity and community safety.
- Seeks to retain the spacious boulevard atmosphere of Fitzroy Street and promote its tourism and entertainment role of Fitzroy Street.
- Maintain the local retail servicing role, including core retail along Fitzroy Street between Princes and Acland Streets.
- Encourage office and non-retail commercial uses north of Princes Street and facilitate a transition to St Kilda Junction.
- Encourage non-retail commercial uses and residential development on the north-west side of Fitzroy Street, between Beaconsfield Parade and Canterbury Road.
- Promote the tourism and entertainment role of Acland Street, while retaining the distinctive village atmosphere and local retailing services role.

Clause 13.05-1S Noise management

As a State level policy, it contains an objective to assist the management of noise effects on sensitive land uses. Likewise, as relevant to the current project, it includes a cross reference to external policies and guidelines including: Environment Protection Regulations under the Environment Protection Act 2017 and Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues (Publication 1826, Environment Protection Authority, May 2021).

Clause 13.07-3S – Live music

This State level policy is of key relevance to the current project works, and warrants quoting in full:

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.*

Clause 17.04-1L - Tourism and the arts

This local level Clause outlines relevant considerations including:

- Contains an objective to promote Port Phillip as a premier tourist and arts destination.
- Seeks to encourage tourist attractions with local, national and international appeal, that offer local community benefits and limit negative amenity and environmental impacts.
- Provides a range of facilities and infrastructure (including 'wayfinding' amenities and signage) in appropriate locations that support tourism needs and improve access to Port Phillip's attractions.

Beyond the planning policy framework summarised above, a range of existing zones apply within the study area and influence landuse and development, which are briefly outlined within Section 3.0 below.

Clause 52.27 Licenced Premises

This State level policy is relevant as typically live music is facilitated within licenced premises.

The two listed purposes of Clause 52.27 are nominated as:

- To ensure that licensed premises are situated in appropriate locations.
- To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.

Additionally, Clause 52.27 outlines instances where a permit is required to use land to sell or consume liquor, in addition to nominating some relevant exemptions.

The listed decision guidelines primarily address amenity relating considerations that the responsible authority must consider, as appropriate, including:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.
- The impact of the hours of operation on the amenity of the surrounding area.
- The impact of the number of patrons on the amenity of the surrounding area.
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area

Clause 53.06 Live Music Entertainment Venues

This State level policy (implemented via VC183 in 2020) constitutes a key part of the SKLMP project, and underpins both Council's preliminary SKLMP boundary as well as Stage 1 and Stage 2 work completed to date.

The nominates purposes of Clause 53.06 are:

- 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.

Clause 53.06 further outlines that it 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.

To assist in the interpretation and implementation of Clause 53.06, it includes the following definitions:

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: community care accommodation, dwelling, residential aged care facility, residential village, retirement village, rooming house or small second dwelling.

Clause 53.06 includes further requirements for live music entertainment venues and noise sensitive residential uses, while further establishing the principle of needing to assess a noise sensitive residential use within 50 metre of a live music entertainment venue. This 50 metre spatial measure has been specifically adopted to inform the development of the SKLMP boundary. The Schedule to Clause 53.06 then functions to provide for more localised implementation mechanisms, relating to designating areas and venue where the clause applies, or otherwise to designate exclusions.

2.3. Live music entertainment venues and the Port Phillip Planning Scheme

Live music entertainment venues are classified under a number of different land uses classes within the Port Phillip Planning Scheme. The zoning of relevant land and the applicable landuse definition for a live music entertainment venue will determine whether planning approval is required to establish the 'use'.

Where the relevant zoning of land triggers a planning permit for 'use' to establish a live music entertainment venue the requirements of Clause 53.06 will be relevant to the consideration of the application. However, where the relevant landuse definition does not trigger a planning permit for 'use' under the zoning of land and that the 'use' can be established 'as of right', the requirements of Clause 53.06 will not be relevant. Even so, it should be noted, where a permit is not required for a 'use', depending on site context a planning permit may still be required for secondary matters, such as dispensation of statutory parking requirements. The summary table below outlines typical land use definitions applicable to live music entertainment venues within the SKLMP, and whether they trigger a planning permit for the 'use' of land.

Applicable Zones & Land use nesting	Retail	Place of assembly				
	Food & drink premises*	Nightclub	Function Centre	Rehearsal studio	Recording Studio	Theatre
Commercial 1 Zone (C1Z)	Permit not required	Permit required	Permit required	Permit required	Permit required	Permit required
Comprehensive Development Zone 2 (CDZ2) - St Kilda Station	Permit required	Permit required	Permit required	Permit required	Permit required	Permit required
Comprehensive Development Zone 3 (CDZ3) - Acland Court	Permit required	Permit required	Permit required	Permit required	Permit required	Permit required
Special Use Zone 1 (SUZ1) – St Kilda Sea Baths	Landuse guided by relevant site specific Incorporated Document					
Special Use Zone 2 (SUZ2) – Luna Park	Landuse guided by relevant site specific Incorporated Document					
Special Use Zone 3 (SUZ3) – The Triangle Site	Permit required	Permit not required **	Permit not required **	Permit required	Permit required	Permit required
Mixed Use Zone (MUZ) – Newmarket Hotel & SKLMP buffer area	Permit not required if under 150sqm	Permit required	Permit required	Permit required	Permit required	Permit required

(continued)

Applicable Zones & Land use nesting	Retail	Place of assembly				
	Food & drink premises*	Nightclub	Function Centre	Rehearsal studio	Recording Studio	Theatre
Residential Growth Zone (RGZ) - Beaconsfield Hotel	Permit required	Prohibited	Permit required	Permit required	Permit required	Permit required
General Residential Zone (GRZ) – Esplanade Hotel, National Theatre, Dogs Bar & SKLMP buffer area	Permit required	Prohibited	Permit required	Permit required	Permit required	Permit required
Neighbourhood Residential Zone (NRZ) – SKLMP buffer area	Permit required	Prohibited	Permit required	Permit required	Permit required	Permit required
Public Park & Recreation (PPRZ) – St Kilda Bowls Club	Permit not required***	Permit required	Permit required	Permit required	Permit required	Permit required

* - Food & drink premises definition includes bar, hotel & restaurant.

** - Landuse must comply with an approved Development Plan, otherwise planning permit required.

*** - Provided it conducted by or on behalf of a public land manager, otherwise permit required.

Figure: Live music entertainment venue: permit triggers for use

Beyond considerations of whether the 'use' of land requires planning approval, there is the additional matter of whether any 'development' works also requires planning approval. Typically the construction and carrying out of works will trigger a planning permit for 'development', and in the context of the current project, such works could involve the construction and/or extension of buildings for a live music entertainment venue, or extend to the construction of a building to accommodate a noise sensitive residential use.

Where a planning permit is required to be assessed for 'development' of buildings and works (including works relating to a live music entertainment venue, or a noise sensitive residential use), the requirements of Clause 53.06 will be a relevant consideration for the assessment of the planning application.

3. Commentary on associated background documents

In order to frame the Stage 2 analysis, a range of background documents have been reviewed, including:

- Live Music Action Plan: 2021-24 (2021)
- St Kilda Live Music Precinct Policy (2023)
- Spatial Economic & Employment Framework (2023)

Key observations, and content relevant to the context of the current matter is briefly outlined below.

3.1. Live Music Action Plan: 2021-24 (2021)

The City of Port Phillip Live Music Action Plan: 2021-24 (LMAP) was finalised in 2021 and adopted by Council in April of that year. The LMAP functions as a document to outline what Council can and will do to future-proof live music in CoPP, and seeks to ensure it remains a priority amongst competing interests and the pressures of a changing and growing community. Noting that the Stage 2 work specifically focuses on aspects relating to Planning Scheme implementation, following below is the commentary of the LMAP as it relates to the scope of Stage 2 work.

Key observations in relation to this document and its relevance to the current Stage 2 scope of works is as follows:

- The LMAP covers the wide range of issues and opportunities associated with fostering and supporting a live music industry within St Kilda, and outlines a number of goals and outcomes sought to be delivered and achieved.
- As the LMAP is a broad level 'Council Action Plan', it covers a significant range of matters both within and beyond the planning system and the Port Phillip Planning Scheme.
- Page 22 includes: *Outcome 2: Goal 3 Encourage maximum live music opportunities via the creation of music precincts and develop a range of initiatives to 'broker' harmony between venues and local residents.* Outcome 2 further outlines a number of relevant actions, including:
 - *'Work with Music Victoria to identify potential live music precinct'* (note: this has been developed by Council and subject to further work during Stage 1, and will be subject to further review and refinement as part of the current Stage 2 of works).
 - *'Undertake strategic planning and scoping work for precinct creation, including acoustic investigation into noise impacts and protections, and investigations into economic, community and industry benefits'* (note: aspects of this work have been completed to date by Council and part of Stage 1)
 - *'Work towards implementing the relevant amendment(s) to the planning scheme to enable creation of music precincts within the municipality'* (note: this is the specific focus of this Stage 2 works).

NOTE: the remaining Outcomes and associated Goals and Actions as listed within the LMAP which are outside of the scope of Planning Scheme implementation have not been reviewed in detail and are subject to implementation by other means and initiatives.

Analysis:

The LMAP is a key background document insofar as it sets up the framework for the current scope of work to review, make specific recommendations and draft necessary Planning Scheme policy documents to formally implement the SKLMP into the Port Phillip Planning Scheme. It therefore constitutes part of relevant background material underpinning the strategic justification for the proposed Planning Scheme Amendment.

3.2. St Kilda Live Music Precinct Policy (2023)

The City of Port Phillip St Kilda Live Music Precinct Policy (2023) (LMPP) was finalised in 2022 and adopted by Council in June of this year. Contextually, the LMPP builds upon the earlier LMAP, and forms part of the nominated 'roadmap' for the development of a St Kilda Live Music Precinct.

Following a desktop review, key observations in relation to this document and its relevance to the current Stage 2 scope of works is as follows:

- Sets up a broad timeline aka roadmap for the implementation of the St Kilda Live Music Precinct, including the potential gazettal of a Planning Scheme amendment by the Minister for Planning by 2025.
- The LMPP clearly sets up the framework further targeted work on the formal implementation of a SKLMP, as is the focus of the current project work.
- The LMPP steps out exactly what the policy is and is not through the following statements:

What this policy is:

- *A determined step towards Council formally designating a precinct to recognise the importance of the St Kilda live music scene whilst seeking to balance the needs of surrounding residents.*
- *Council's commitment to best practice customer service and communications to address current issues and concerns with live music to help our residents and our music co-exist.*
- *A roadmap for next steps, including working with state government, to ensure that our community is part of the process and is given every opportunity to have their say and shape the future of live music in St Kilda.*

What this policy isn't:

- *A change to noise regulations or legislation that would lead to increased levels of noise from live music in St Kilda.*
 - *A foregone conclusion as to what the St Kilda live music precinct would entail – this will be determined in consultation with stakeholders including residents, businesses, venues and event operators.*
 - *Specific changes to compliance, governance, permitting or assessment of live music activity.*
- The LMPP also steps out five key outcomes which are sought through the implementation of a SKLMP, including:
 1. *Protect existing and encourage new live music activity in a supportive environment where the needs of the live music sector are balanced with those of the residential and business communities.*
 2. *Develop a clear framework for the community and the industry to co-exist, based on clear and transparent communication, process and expectation.*
 3. *Ensure any proposed new residential use takes account of any existing venue, and the possibility of new venues (this extends the agent-of change principle to a whole-of-precinct approach).*
 4. *Advocate to state government for changes to planning and regulatory tools to achieve simplified and aligned processes for the live music industry, within the designated precinct.*
 5. *Explore the mapping of live music venues, to best manage and support live music activity. Includes listing details such as capacity, frequency of hosting music, accessibility, website and social links and liquor and planning permit details related to live music/noise conditions.*

- The LMPP further sets down applicable definitions, and the role of the LMPP and associated actions for various stakeholder groups, including: residents venue/event operators and musicians.
- Beyond the above, a key aspect is the inclusion of a preliminary SKLMP boundary, where the LMPP clearly sets up the policy framework for further targeted work on the formal implementation of a SKLMP into the Port Phillip Planning Scheme. This is the specific focus of the current Stage 2 scope of works.

Analysis:

The LMPP includes a preliminary SKLMP boundary at page 11, which was considered by and differs from the nominated boundary within the Stage 1 Report. As per the earlier review of the Stage 1 Report (refer to Section 3.1.2), it included suggested modifications, including the addition of the Greeves Street Mixed Use Precinct and the designation of sub-precincts within the preliminary SKLMP boundary. This report disagrees with those modifications, and outlines reasons why in Section 4.1.

With regard to the preliminary SKLMP boundary within the LMPP, it was furnished with the following qualification: *'Note: Precinct boundaries to be determined with further technical analysis and map is indicative only'*. In noting this qualification, this current Stage 2 work has undertaken the required further technical analysis and recommends the final SKLMP boundary to be implemented, as per the map in Appendix 3.

The current Stage 2 scope of works builds upon existing content of the LMPP. Therefore, the LMPP constitutes relevant background material which will underpin the strategic justification for the proposed Planning Scheme Amendment.

3.3. Spatial Economic & Employment Framework (2023)

In March 2024, Council adopted the City of Port Phillip Spatial Economic & Employment Framework (SEEF). This framework is a policy document applicable to all employment land in the area and will serve as the strategic foundation for decisions on employment land, including spaces for live music.

The SEEF outlines a clear vision, objectives, directions, and actions. It acknowledges the importance of creative industries in the CoPP and references other Council strategies. One crucial action is to implement the Live Music Action Plan and integrate the SKLMP into local planning policies.

This action underscores the Council's commitment to supporting the local cultural scene, particularly in live music.

Analysis:

The SEEF is a key economic strategy policy document for Port Phillip, which itself is underpinned by a number of other Council Strategies and Plans which relate to the SKLMP. It therefore will form part of the broader strategic documentation framework which will broadly strategically support the implementation of the SKLMP into the Port Phillip Planning Scheme.

4. Review of Stage 1 SKLMP Boundary

In June 2023, the CoPP adopted the St Kilda Live Music Precinct Policy and with it, a preliminary boundary for the SKLMP. CoPP's preliminary SKLMP map is provided at Figure 1, and included at larger scale in Appendix 1.

Stage 1 also uses this preliminary boundary which includes a 'core live music activity area' as nominated on the map legend. The 'core live music activity area' is predominantly focused on commercial zoned land within the St Kilda (Fitzroy/Acland Streets) Major Activity Centre, in addition to nominating 'public open spaces that currently or may host events with live music' (refer to map legend). Additionally, the preliminary SKLMP boundary includes a surrounding 'buffer area', which has been typically defined as land within 50 metres of the nominated core areas and public open spaces.

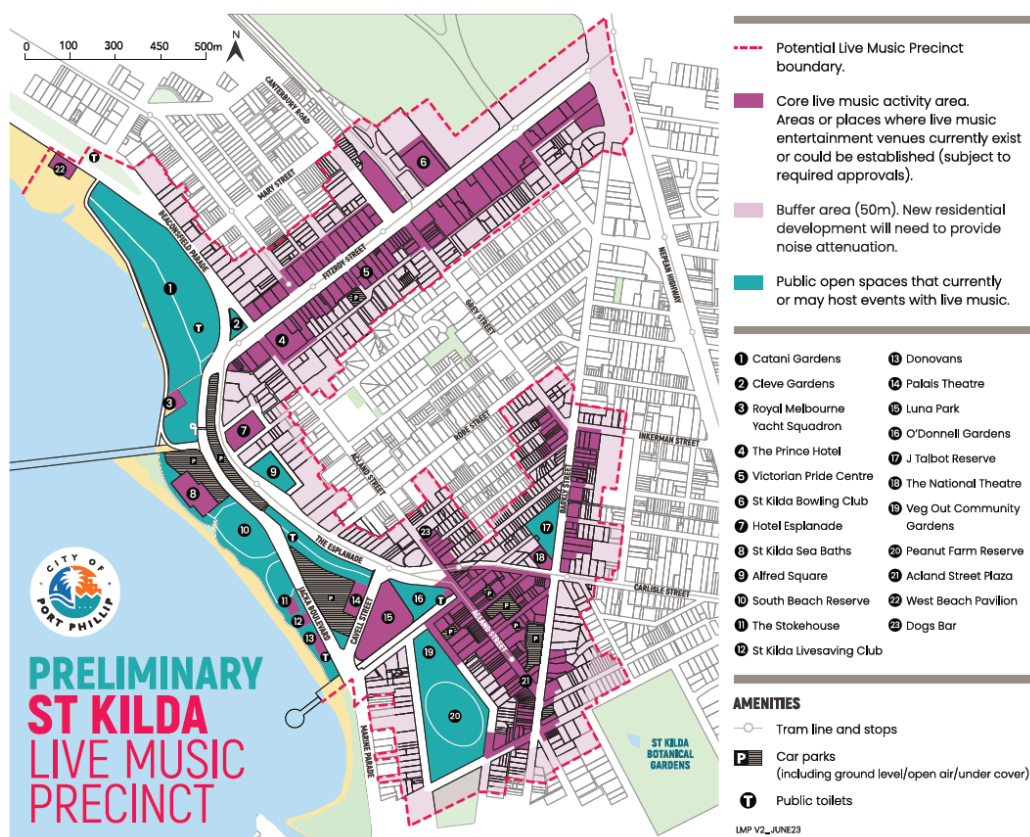


Figure 1: City of Port Phillip Preliminary SKLMP boundary

The above map is included in larger format at Appendix 1.

Following a detailed review of Council's preliminary SKLMP map, it is noted that the 'core live music activity area' is almost exclusively focused on commercially zoned land, which within the St Kilda (Fitzroy/Acland Streets) Major Activity Centre encompasses the Commercial 1 Zone (C1Z). However, some anomalies to this exist, which includes sites in alternate zones. Such sites include:

- St Kilda Bowling Club: zoned Public Park & Recreation Zone (PPRZ)
- St Kilda Station development: zoned Comprehensive Development Zone (CDZ2)
- West Beach Pavilion: zoned Public Park & Recreation Zone (PPRZ)
- St Kilda Sea Baths: zoned Special Use Zone (SUZ1)
- The Stokehouse, St Kilda Life Saving Club & Donavans: zoned Public Park & Recreation Zone (PPRZ)
- Luna Park: zoned Special Use Zone (SUZ2)
- The Palais & St Kilda Triangle: zoned Special Use Zone (SUZ3)
- Acland Court: zoned Comprehensive Development Zone (CDZ3)
- The National Theatre: zoned General Residential Zone (GRZ)

In addition to the 'core live music activity area', a number of public open spaces within the SKLMP have been nominated as 'public open spaces that currently or may host events with live music'. Typically the nominated public open spaces are located along or within proximity to the foreshore, with exceptions being:

- Veg Out Community Gardens, Shakespeare Grove, St Kilda
- Peanut Farm Reserve, Chaucer Street/ Spencer Street, St Kilda
- J Talbot Reserve, Barkley Street, St Kilda

The CoPP Preliminary SKLMP boundary also includes a 'buffer area' of 50 metres has been applied around the 'core live music activity area' and nominated public open spaces. The 50 metre buffer assessment is notably derived from Clause 53.06 – Live Music Entertainment Venues which sets out that a permit application for a live music entertainment venue must be designed, constructed, and managed to minimise noise emissions from the premises, and provide noise control measures that will protect a noise sensitive residential use within 50 metres of the venue. It is further noted that in instances where part of an allotment is within 50 metres, the entirety of the allotment has been included in the 'buffer area'. The designated 'buffer area' contains land predominantly within the Neighbourhood Residential Zone (NRZ), General Residential Zone (GRZ) and Mixed Use Zone (MUZ), although it also covers some land within the Public Park & Recreation Zone (PPRZ) and Transport Zone (TRZ). While the Stage 1 Report adopts the CoPP preliminary SKLMP boundary, it also proposed a number of boundary modifications, including:

- The expansion of the SKLMP boundary to include the Greeves Street 'mixed activity precinct'.
- The inclusion of a number of sub precincts within the SKLMP.

As an initial observation, the guiding principles employed to designate the CoPP Preliminary SKLMP boundary are considered to be strategically sound, clear and logical. However, following a more detailed review of the Preliminary SKLMP boundary, a number of relatively minor refinements are recommended. Refer to Figure 2 of the Stage 1 Report's version of the SKLMP boundary.

The following section of the report functions to document the detailed analysis undertaken of both CoPP's preliminary SKLMP boundary as shown in the adopted Council policy document St Kilda Live Music Policy, June 2023, and the expanded version with sub-precincts as documented in the Stage 1 Report. This analysis outlines and documents recommendations for a range of refinements to the SKLMP.



Figure 2: Stage 1 proposed SKLMP boundary with expansions and sub precincts (source: Figure 9, page 47, Stage 1 Report)

4.1. Methodology for SKLMP boundary review

The methodology employed for the boundary review of the CoPP Preliminary SKLMP boundary and the revised Stage 1 SKLMP boundary involved a desktop level analysis utilising zone maps, cadastre lot boundary information and current aerial photographs. This desktop review primarily focused on identifying potential omissions or anomalies with the proposed location of the SKLMP boundary, including the potential for unintended landuse conflict, and/or the creation of a boundary alignment which lacked uniformity.

The desktop level review was further underpinned by specific site inspections to further consider and confirm omissions and anomalies identified through the desktop level analysis. Two maps have been produced as part of this analysis of the SKLMP boundary, and are provided at Appendix 2 & 3 as follows:

- Appendix 2: *Comparison of Port Phillip Preliminary SKLMP boundary & Hansen's proposed revisions*
- Appendix 3: *Stage 2 SKLMP boundary map*

The initial observations, assumptions and guiding principles which underpin the methodology for the SKLMP boundary review include:

- It is noted that Council's preliminary SKLMP boundary is predominantly focused on the Commercial 1 Zone (C1Z) but extends to some existing venues such as National Theatre, Dogs Bar, both of which are in the General Residential Zone (GRZ1). This approach is strongly supported, and should remain as defining the 'core area' and for any other anomaly sites which are identified through the review.
- To assess Council's preliminary SKLMP boundary further, Council's Illustrator file for the preliminary SKLMP boundary was used as a starting point for the analysis. An additional boundary was added based on a 'strict' 50m assessment line mapped from the boundary of all land in the 'core area' and public open space areas marked for live music.
- Council's SKLMP boundary was determined on the basis of applying the principle, which specifies if the 50m assessment touches an allotment, the entire allotment is included. This principle is generally supported, but in some instances it does not result in a practical, logical or strategically justifiable outcome. Recommendations for targeted boundary adjustments are outlined under separate headings below.
- A general approach to the boundary review has been to look for opportunities to have uniform boundary lines for the SKLMP wherever possible, with a view to reducing questions and arguments of what land is within or outside of the boundary.
- A general principle has been to ensure the SKLMP boundary should align with property boundaries wherever possible and logical. Such an example would be where the 50m buffer line is located along a roadway, and could be better aligned to property boundary, as nominating part of a roadway in the buffer area has no practical impact.
- A general principle has been to ensure that the SKLMP buffer area is not unnecessarily applied over public land, which in practical terms is highly unlikely to accommodate sensitive residential landuse in future.

The following headings of the report function to document targeted analysis and associated recommendations for proposed revisions to the SKLMP boundary. Cropped inset maps have been used to explain and justify proposed revisions to the CoPP Preliminary SKLMP boundary map (refer Appendix 1). The cropped inset maps have been taken from the analysis map contained in Appendix 2 (i.e. Comparison of Port Phillip Preliminary SKLMP boundary & Hansen's proposed revisions map).

Stage 1 Report proposed use of potential sub-precincts within SKLMP

The Stage 1 Reports suggest applying a number of sub-precincts within the SKLMP boundary, and nominating different types of live entertainment music venues for each precinct. The Stage 1 appendices, titled Echelon Planning Proposition Report includes a matrix to assist in ascribing categories of live music venues. This is reproduced below.

	Category of Live Music Venues				
	Category 1: Public Land – Occasional Live Music	Category 2: Public and Community Venues – Occasional	Category 3: Private Venues – Regular Live Music, Low	Category 4: Private Venues – Regular Live Music	Category 5: Private Venues – Regular Live Music, High
Area 1: St Kilda Major Activity Centre (MAC)	✓	✓	✓	✓	✓
Area 2: Inkerman/Grey Street Local Activity Centre (LAC)	✓	✓	✓		
Area 3: St Kilda Foreshore	✓	✓	✓	✓	✓
Area 4: Unclassified live music venues and additional Public Open Space venues	✓	✓	✓		
Area 5: Greeves Street Mixed Activity Precinct (MAP)	✓	✓	✓		

Source: page 36 Echelon Planning: St Kilda Live Music Precinct Planning Study: Planning Proposition Report.

While Echelon Planning suggests a matrix approach, the use of sub-precincts and specific activity levels in the SKLMP may make the issue more complex. The main goal is to create a Planning Scheme that supports current and future live music venues. As an example of the potentially overcomplicated approach, as per the Echelon version of the SKLMP map, the Esplanade Hotel is noted as being in *Area 4: Unclassified live music venues*. When cross referencing this Area 4 designation to the above matrix table, it is noted that the established activities of the Esplanade Hotel would be defined as a Category 4 and 5 venue, yet this level of activity is specifically discouraged in *Area 4: Unclassified live music venues*. It is considered that the proposed matrix approach may in practical terms be too prescriptive with regard to outcomes sought. While the broader aim of the matrix approach is acknowledged, conversely by being too prescriptive may end up hindering the flexibility and adaptability of landuse throughout the SKLMP.

In taking a more streamlined and simplified approach, it is considered that the SKLMP should function to clearly designate where live music entertainment venues are encouraged, but then should not attempt to pre-establish and/or predetermine the level of associated live music activity. Rather, when a new live music entertainment venue is sought to be established, at that point in time it should considered on merit of the proposed use in relation to it specific context and surrounds. This would function to facilitate discretion-based planning in line with the broader intent of the Victorian Planning Provisions. In instances where land-use may not require town planning approval (i.e. where live music is provided ancillary to a food and drink premises which is as of right in a Commercial 1 Zone (C1Z)), EPA regulations, Local Laws and Liquor Licencing are still relevant considerations.

Conclusion

It is recommended that the proposed sub-precincts for the SKLMP proposed at Stage 1 are abandoned as they are not well founded, strategically justifiable or practical for implementation into the planning scheme.

Stage 1 Report – proposed expansion to SKLMP boundary

The Stage 1 Report and appendices suggests expanding the SKLMP to include the entirety of the Greeves Street Mixed Activity Precinct. However, upon detailed review, this expansion is not considered strategically justified.

This opinion is based on the current strategic directions of the Port Phillip Planning Scheme at Clause 17.02-1L which seeks to:

- *'Encourage the redevelopment of the Greeves Street Mixed Activity Precinct to transition to predominantly residential uses'.*
- *'Supporting office and compatible light industrial/warehouse uses in the Greeves Street Mixed Activity Precinct where they do not undermine or negatively impact on the primary residential function of this area.'*

In reading the above strategic directions for the Greeves Street Mixed Activity Precinct, it is one focused on a transition to residential, with residential being the primary function of the area. This position is further strengthened by the SEEF, which aims to support the transition of the municipality's mixed-use precincts to primarily residential areas. Where other activities such as office and light industrial/warehouse are indicated, they are typically daytime related uses, which would allow them to more harmoniously coexist with residential development.

The suggestion of Stage 1 Report and appendices that Greeves Street Mixed Activity Precinct has the potential evolve to a nighttime focused economy is not currently supported by the strategic directions of the Port Phillip Planning Scheme. Also, while the Stage 1 Report and appendices include the entirety of the Greeves Street Mixed Activity Precinct as a proposed addition to the SKLMP, for reasons unknown (or at least not fully explained in the Stage 1 Report and appendices), an additional buffer of 50m to cover adjacent residential land surrounding the Greeves Street Mixed Activity Precinct has not been included.

A more pragmatic assessment of the Greeves Street Mixed Activity Precinct reveals that it contains various legacy based industrial and warehouse activity, in addition to offices, galleries, retail shops, cafes, restaurants, Newmarket Hotel, and other food and drink premises located along Inkerman Street. But despite these existing commercial focused uses, the predominant land-use within the Greeves Street Mixed Activity Precinct is residential, with clear strategic directions to further transition to residential in future. Also, apart from The Newmarket Hotel and other restaurants on Inkerman Street, the Greeves Street Mixed Activity Precinct is not a noted area of late-night activity, nor is the precinct well connected to the balance of the SKLMP. Its inclusion within the SKLMP could potentially dilute the core live music area within St Kilda where live music is better suited, and has an established history.

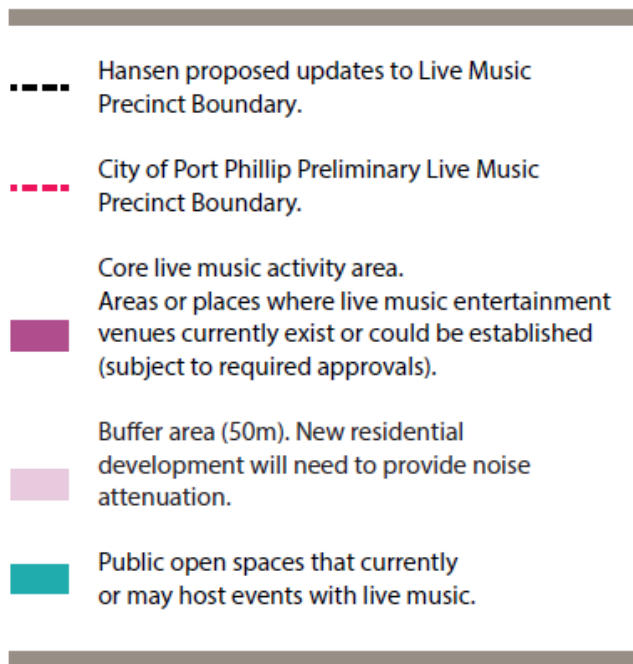
Therefore, given the strategic policy context and physical size and separation of the Greeves Street Mixed Activity Precinct, it is considered that the proposed inclusion of the entirety of this area may unintentionally undermine the core area of the declared SKLMP, being primarily focused on Fitzroy Street and Ackland Street. On this basis it is not recommended that the Greeves Street Mixed Activity Precinct it included in the SKLMP.

Conclusion

It is recommended to abandon the proposed Stage 1 expansion of the SKLMP boundary to include the Greeves Street mixed activities precinct, as it is not well founded, nor is it strategically justifiable for implementation into the Port Phillip Planning Scheme.

Map legend for inset plan analysis maps

The key output of the SKLMP boundary review is the *Stage 2 SKLMP boundary map* contained in Appendix 3. That map is informed by the analysis map contained in Appendix 2, entitled *Comparison of Port Phillip Preliminary SKLMP boundary & Hansen's proposed revisions*. The following sections of the report sections outlines the detailed analysis of the proposed changes and included a series of inset maps with notations to assist in explaining the proposed changes. The following legend applies to each of the inset maps.



Map legend for inset plan analysis maps

Source: Appendix 2, entitled *Comparison of Port Phillip Preliminary SKLMP boundary & Hansen's proposed revisions*

Application of buffer area of public land

A review of the SKLMP boundary noted that it applies a 'buffer area' designation over land within the Public Park & Recreation Zone (PPRZ) or the Transport Zone (TZ) in the following locations:

- Parkland within Albert Park located to the north-west of Fitzroy Street (zoned PPRZ)
- Road reserve at St Kilda Road Junction located to the north east (zoned TRZ2)
- Parkland within Renrey Gardens located to the south of Blessington Street (zoned PPRZ)

These are considered anomalies within the boundary. Anomalous sites are ones that are considered as having no potential to accommodate sensitive residential land-use being established on the identified areas of public land. Refer to marked up plans below.



In all instances of these noted anomalies, there would not be any realistic likelihood in the future of a sensitive residential land-use being established on the identified areas of public land, thereby making the designation of this land as a 'buffer area' redundant. On this basis, it is recommended that this land is removed from the SKLMP boundary altogether.

Conclusion

It is recommended that the 'buffer area' is removed from the PPRZ and TRZ land as outlined above.

St Kilda Station / Metropal Apartments

A detailed review of the SKLMP boundary revealed that the 'core area' has been applied to the entirety of the St Kilda Station / Metropal Apartments development site, and the 50 metre 'buffer area' subsequently calculated beyond.

However, a detailed site inspection revealed that only the southern half of the development site contains commercial landuse, while the northern half contains predominantly residential apartments. Given that the northern sections of the site accommodating residential apartments would not logically accommodate any live music venues in future, it is therefore not logical for that section of the site to be designated as being in the 'core area' of the SKLMP. Consequently, it is recommended that the 'core area' is revised to apply only to the area of commercial tenancies located the south of the site, and for the 50 metre 'buffer area' to be adjusted accordingly.

As a further observation, at the proposed northern transition between the 'core area' and 'buffer area' there are some ground floor commercial tenancies with residential apartment above. While these commercial tenancies will remain, a decision was made that it would be more strategically appropriate to focus the 'core area' on the southern area of the St Kilda Station development which exclusively accommodates commercial tenancies, and which does not have residential apartment above.



Conclusion

It is recommended that the 'core area' at the St Kilda Station / Metropal Apartments development site is reduced in areas as outlined above, and that the associated 'buffer area' is also reduced.

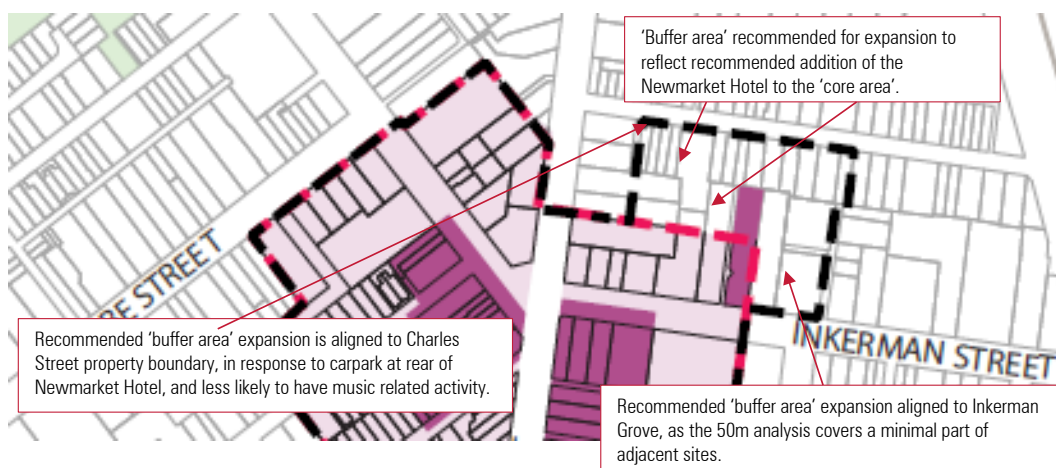
Newmarket Hotel, 36 Inkerman Street, St Kilda

The Newmarket Hotel is a notable existing venue with an established history of live music. However, it was not included within the 'core live music activity area' on CoPP's Preliminary SKLMP boundary in the adopted St Kilda Live Music Precinct Policy, but was included within the 'buffer area', as shown below.



Newmarket Hotel included within the buffer area of CoPP's preliminary SKLMP boundary

The inclusion of the Newmarket Hotel in the 'buffer area' is considered to be a clear omission as it is an established live-music venue. It is assumed the Newmarket Hotel was accidentally missed from being nominated for inclusion on the 'core area' as it is within the Mixed Use Zone (MUZ), rather than the Commercial 1 Zone (C1Z) to which the 'core area' is predominantly targeted. However, as is outlined in Section 4.1, there are some anomaly sites such as the National Theatre which is notably within a residential zone, but as an existing venue is included within the 'core area'. It is recommended that the same principle is applied to the Newmarket Hotel as an established live-music venue, where it should be included within the 'core area', and an additional 50m 'buffer area' surrounding it is designated.



Conclusion

It is recommended that Newmarket Hotel is added to the 'core area', and that the associated 'buffer area' is consequently expanded.

Beaconsfield Hotel: 341 Beaconsfield Parade, St Kilda West

The Beaconsfield Hotel located at 431 Beaconsfield Parade St Kilda West is a former hotel site located just outside of the Council's preliminary SKLMP boundary. Although the site has been vacant and inactive for many years, a current planning application PDPL/00334/2023 is seeking to reestablish the use of the site as a bar. Although no live music is proposed as part of the current application, given the broader aspirations of the SKLMP to provide for and protect opportunity for live music, it is considered prudent to include the site within the 'core live music activity area', and to include surrounding properties within the 'buffer area'.

It is acknowledged that the Beaconsfield Hotel site is within the Residential Growth Zone (RGZ). As is outlined in Section 4.1, there are other anomaly sites such as the National Theatre, which are notably within a residential zone but included within the 'core area'. It is recommended that the same principle is applied to the Beaconsfield Hotel as an established live-music venue, where it should be included within the 'core area', and an additional 50m 'buffer area' surrounding it is designated as illustrated below.



Conclusion

It is recommended that Beaconsfield Hotel is added to the 'core area', and that the associated 'buffer area' is consequently expanded.

West Beach expansion

Council has confirmed that music events have been conducted at West Beach St Kilda (being the beach area adjacent to West Beach Pavilion), and with such events conducted in accordance with the Outdoor Event Noise Management Guidelines - Event Noise Modelling (May, 2019) prepared by RenzoTonin & Associates on behalf of City of Port Phillip.

Noting this prior established history, it is recommended for the SKLMP boundary to be expanded to cover the entirety of the west beach area. With regards to the proposed boundary expansion and the potential application of 'buffer area' to existing properties fronting Beaconsfield Parade, it is noted that this is not recommended, due to the width of the existing Beaconsfield Parade road reserve being in excess of the default 50 metres.

Although the Outdoor Event Noise Management Guidelines prepared by RenzoTonin & Associates on behalf of City of Port Phillip have been sited, it did not inform or underpin the proposed expansion of the boundary at West Beach. Notwithstanding, it is assumed that any future live music events held at West Beach would need to ensure they are conducted in accordance with the Outdoor Event Noise Management Guidelines (or any revised or updated version).



Conclusion

It is recommended that the entirety of West Beach is added to the 'core area', but that an associated 50 metre 'buffer area' is not required to be added to adjacent properties fronting Beaconsfield Parade as the existing road reserve is in excess of 50 metres wide.

General boundary refinements

A number of more minor and general boundary refinements are proposed, each of which are described below.

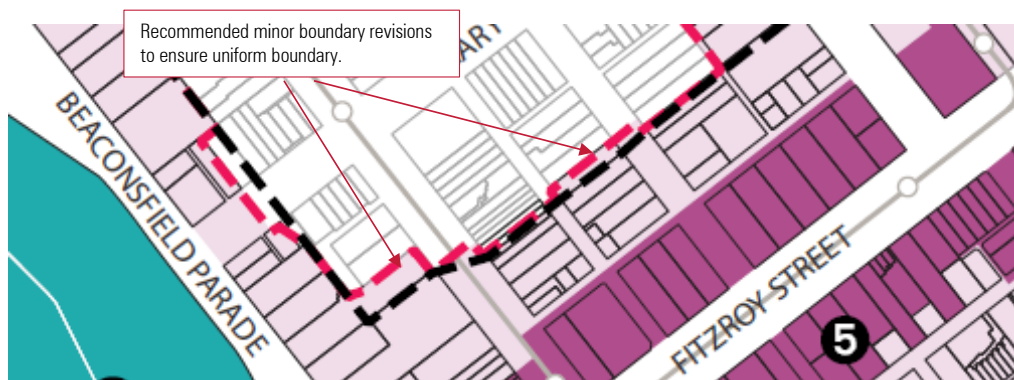
18 Barkley Street, St Kilda

Based on the CoPP preliminary SKLMP boundary, 18 Barkley Street is included in the 'buffer area'. Upon further detailed analysis it is noted that only a small section of this site is within 50 metres from the 'core area', while the closest property in the 'core area' is residential apartment block/serviced apartments. Although it is highly unlikely this apartment block in the 'core area' will accommodate a live music venue in future, for consistency it is recommended that it remain in the 'core area' given the site is within the Commercial 1 Zone (C1Z). However, in further recognition of existing and likely future landuse, coupled by the fact that only a small part of the 50 metre buffer assessment extends over 18 Barkley Street, it is recommended that the 'buffer area' is removed from 18 Barkley Street.



Fitzroy Street, St Kilda (north-west boundary)

Minor adjustments to the 'buffer area' northern boundary are recommended to ensure a uniform and consistent boundary line in this area, as illustrated below.



Beaconsfield Parade, St Kilda

Minor adjustments to the 'buffer area' northern boundary are recommended to ensure a uniform and consistent boundary line in this area, as illustrated below.



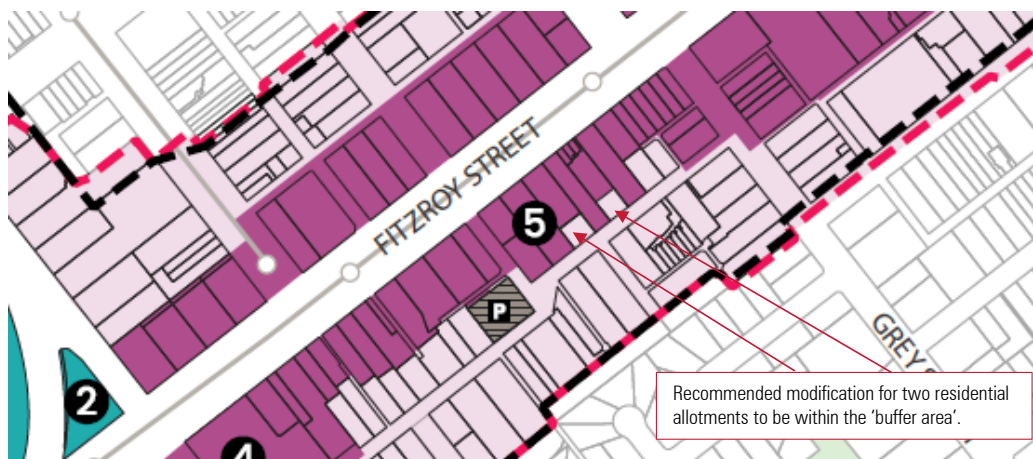
Dalgety Street, St Kilda

Minor adjustments are recommended to revise the SKLMP boundary to align it with front property line, rather than within the road reserve.



Jackson Lane, St Kilda

Minor adjustments recommended to remove two residential zoned allotments from the 'core area', and amend them to be within the 'buffer area' are recommended.



Quest Apartments, Eildon Road, St Kilda

The Quest Apartments includes land extending through to Jackson Lane, which is within the 50 metre 'buffer area'. Noting that the CoPP preliminary SKLMP boundary applied the principle of if any part of allotment is covered by the 50 metre analysis, the entirety of the allotment is included in the 'buffer area'. However, in this instance it has created an anomaly where neighbouring land in Eildon Road is not within the 'buffer area'. On this basis, it is recommended that 'buffer area' is removed for the Quest Apartments site which it beyond a strict 50 metre assessment line.



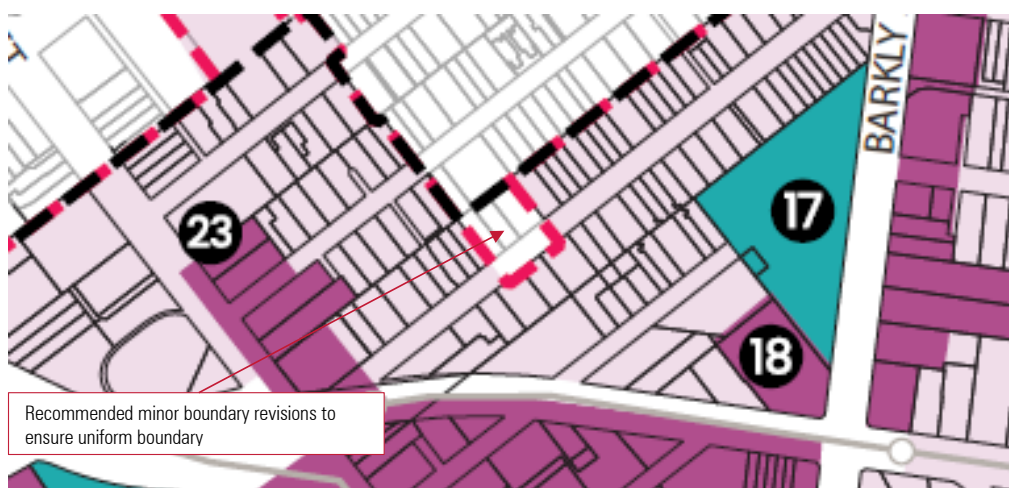
19 Robe Street, St Kilda

19 Robe Street includes land extending through to Clyde Street, which is within the 50 metre 'buffer area'. Noting that the CoPP preliminary SKLMP boundary applied the principle of if any part of allotment is covered by the 50 metre analysis, the entirety of the allotment is included in the 'buffer area'. However, in this instance it has created an anomaly where neighbouring land in Robe Street is not within the 'buffer area'. On this basis, it is recommended that 'buffer area' is removed from 19 Robe Street which is beyond a strict 50 metre assessment line.



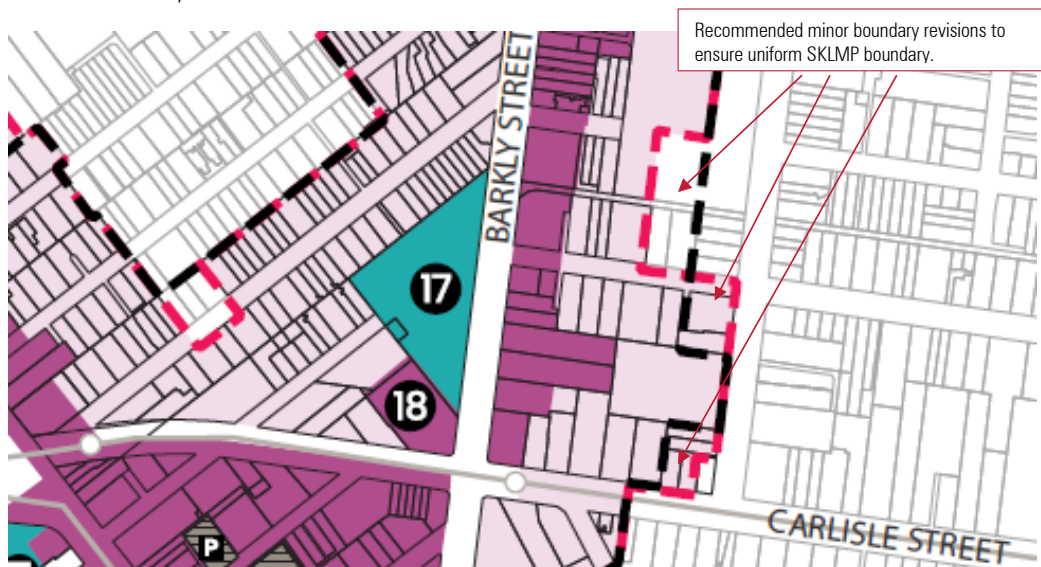
Havelock Street, St Kilda

The CoPP SKLMP preliminary boundary created a minor anomaly that a number of properties within Havelock Street were excluded from the 'buffer area'. This is considered to be problematic from the perspective of explaining and strategically justifying why neighbouring properties are included in the 'buffer area', but not applied to excluded lots in Havelock Street. On this basis, it is recommended that the excluded properties are included within the 'buffer area' to create a more logical boundary for the SKLMP.



Greeves Street/Carlisle Street, St Kilda

Minor adjustments are recommended along Greeves Street/Carlisle Street to create a cleaner and more logical boundary for the SKLMP boundary.



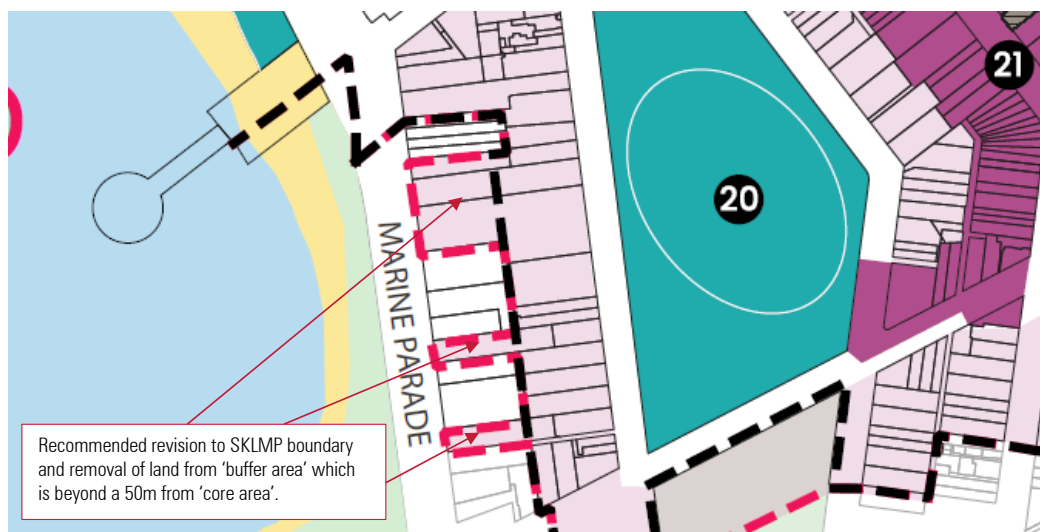
Foster Street/Blessington Street, St Kilda

A detailed review of the preliminary SKLMP boundary along Foster Street/Blessington Street revealed that the extent of the 'buffer area' was being unnecessarily extended due to the irregular lot pattern of commercial properties fronting Barkly Street. Further detailed analysis revealed the rear sections of the commercial property in question contains residential apartments. Noting that the rear sections of the commercial allotments are unlikely to accommodate a live music venue in future, it provided logical justification to refine and slightly reduce the 'buffer area' boundary along Foster Street and Blessington Street.



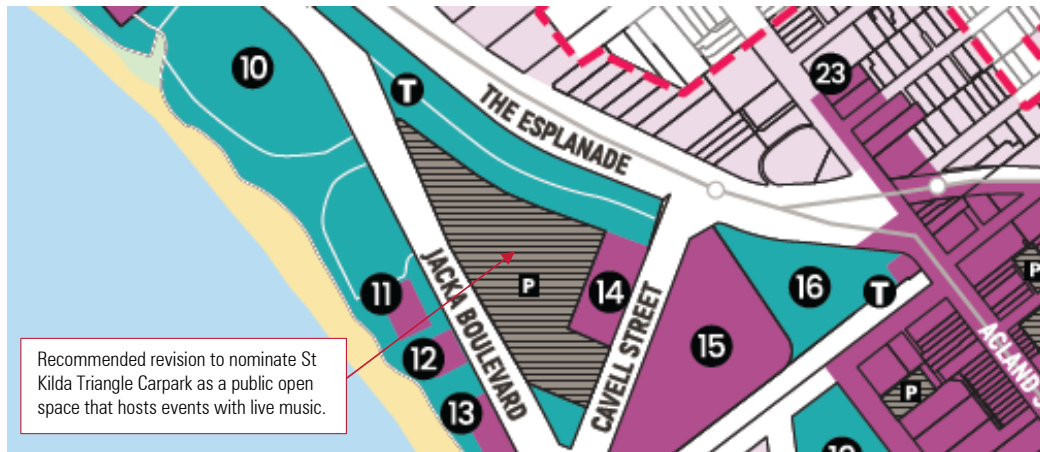
Marine Parade, St Kilda

A number of properties fronting Spenser Street, which is within the 50 metre 'buffer area' of the Peanut Farm Reserve, includes land extending through to Marine Parade. Noting that the CoPP preliminary SKLMP boundary applied the principle of if any part of the allotment is covered by the 50 metre analysis, the entirety of allotment is included in the 'buffer area'. However, in this instance it has created an anomaly where some neighbouring land in Marine Parade is not within the 'buffer area'. On this basis, it is recommended that 'buffer area' is removed from Marine Parade properties which is beyond a strict 50 metre assessment line.



St Kilda Triangle Carpark

The CoPP preliminary SKLMP boundary nominates the St Kilda Triangle site as a carpark area only. However, this designation as a carpark only does not acknowledge that this site has an established history of hosting live music events. On this basis it is recommended that the St Kilda Triangle site is nominated both as a carpark as well as a public open space that hosts events with live music.



Conclusion on general boundary refinements

It is recommended that the following general boundary refinements are made:

- Remove 18 Barkley Street from the 'buffer area'.
- Adjust 'buffer area' boundary north of Fitzroy Street to create a more uniform boundary line.
- Adjust 'buffer area' boundary north-east of Beaconsfield Parade to create a more uniform boundary line.
- Adjust 'buffer area' boundary along Dalgety Street to align with front property boundaries.
- Remove two residential zoned allotments on Jackson Lane from the 'core area', and amend them to be within the 'buffer area'.
- Reduce 'buffer area' over Quest Apartments, Eildon Road.
- Reduce 'buffer area' over 19 Robe Street.
- Expand 'buffer area' over select properties in Havelock Street to create uniform boundary.
- Adjust 'buffer area' boundary west of Barkley Street to create a more uniform boundary line.
- Adjust 'buffer area' boundary at Foster Street/Blessington Street to create a more uniform boundary line.
- Adjust 'buffer area' boundary at Marine Parade to create a more uniform boundary line.
- Nominate the St Kilda triangle carpark site as public open space that hosts events with live music.

SKLMP boundary: comparative analysis map

With regard to the above documented analysis and recommendations for modifications to the CoPP Preliminary SKLMP boundary (refer to Appendix 1), the cropped 'inset' maps are specifically taken from a comparative map which documents the analysis of the CoPP's Preliminary SKLMP boundary and Hansen's proposed revisions.

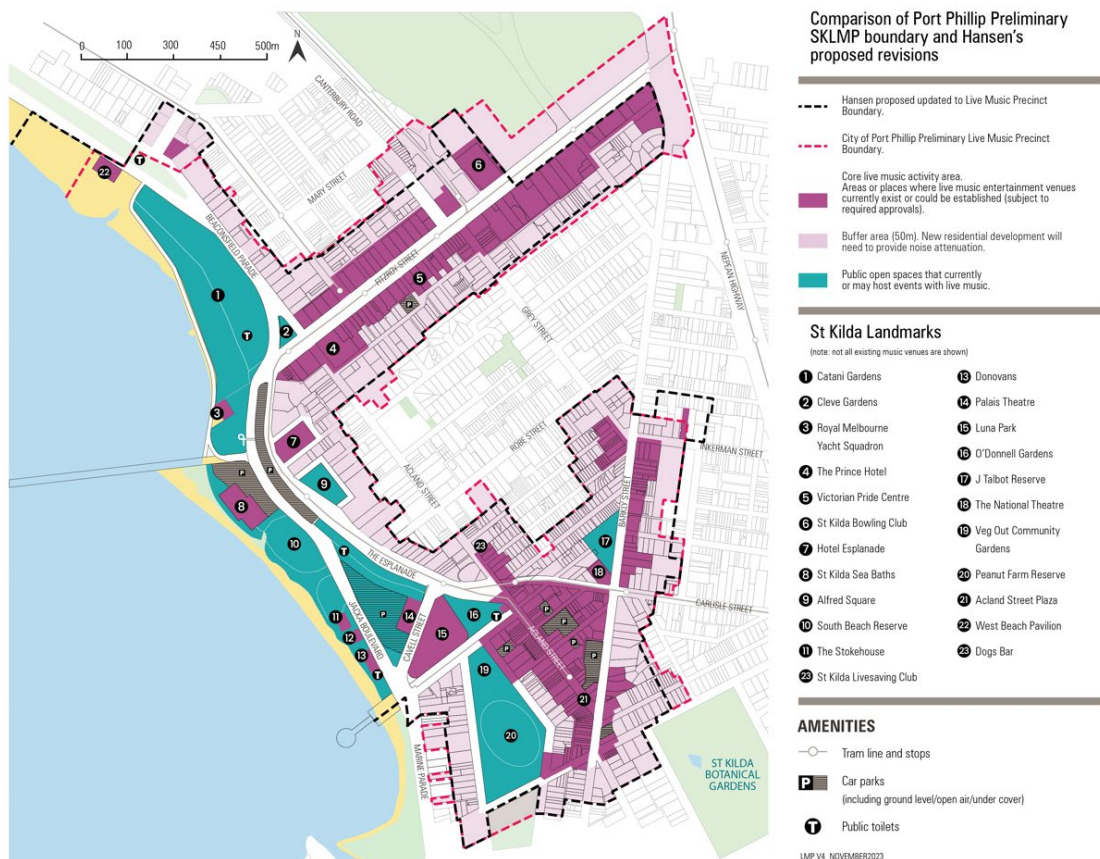


Figure 2: Comparison of Port Phillip Preliminary SKLMP boundary and Hansen's proposed revisions

The above map in larger format is included at Appendix 2.

Recommended Stage 2 SKLMP boundary

Section 4.1 of this report documents the analysis of the SKLMP boundary and the targeted boundary modifications which are proposed. These proposed modifications have been consolidated into a final recommended Stage 2 SKLMP boundary map which is illustrated below. This map is provided in larger format at Appendix 3.

To assist in reading the map, a number of landmarks and various existing live music venues are illustrated on the map. Although equally not all existing live music venues are shown. However, it is important to note that the version of this map proposed to be implemented into the Port Phillip Planning Scheme will not illustrate live music venues. This is to ensure the map does not become out of date if existing live music venues cease operation, or new live music venues are established. More broadly, the intent of embedding the SKLMP map into the Port Phillip Planning Scheme is to ensure the spatial extent of the full boundary and its designation into the core area and buffer areas provided in a relevant policy context.

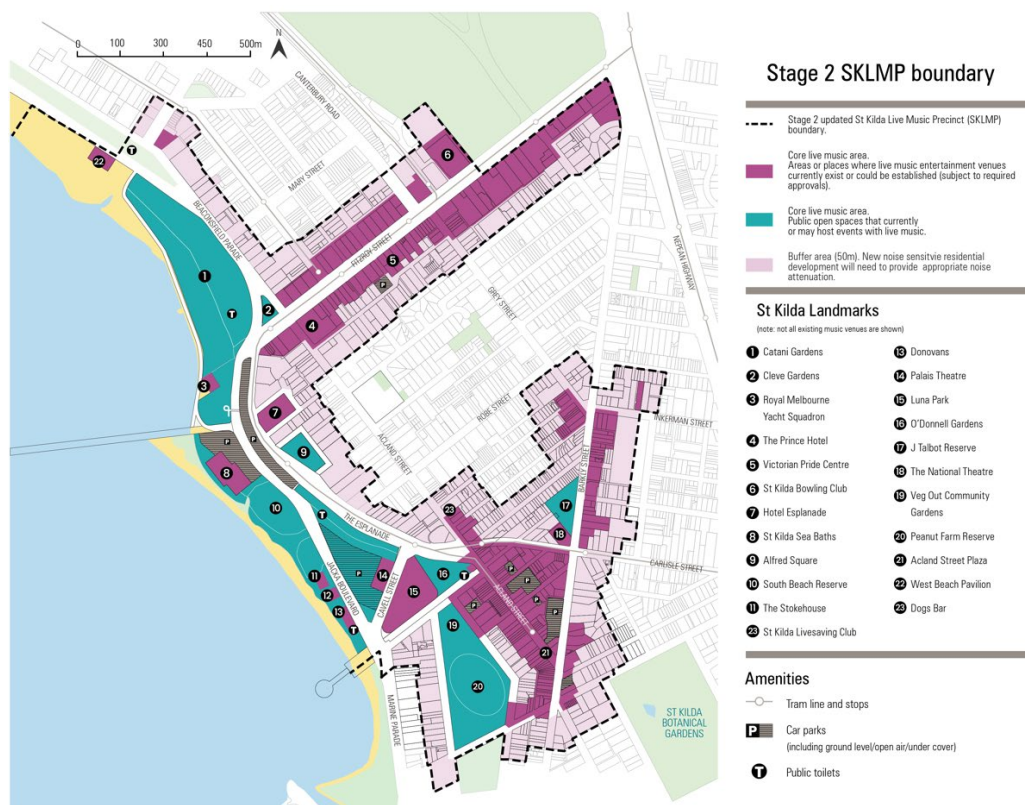


Figure 3: Stage 2 SKLMP boundary map

5. Detailed Stage 1 documentation review

The detailed review and analysis of Stage 1 documentation has been conducted and documented in two parts. Within Section 4.1, the first part of the analysis has undertaken a detailed review of a number of the specific 'planning propositions' outlined in Stage 1. Each of these propositions represents a route that Council can take. Within Section 4.2, the second part of the analysis has documented a range of additional planning issues which were identified during a review of the Stage 1 Report and appendices.

5.1. Stage 1 Planning Propositions: review

A key aspect of Stage 2 involves a review of the Stage 1 Planning Propositions, with the intent of determining if they should be moved forwards to formal implementation into the Port Phillip Planning Scheme via a formal Planning Scheme Amendment. Following below is an analysis of the Stage 1 planning propositions (which are derived from Appendix B: Planning Proposition by Echelon Planning).

Proposition 1: Use of Schedule to Clause 53.06

Use clause 1.0 of the schedule to Clause 53.06 to designate the proposed St Kilda Live Music Precinct study area, as an area where Clause 53.06 applies. This would require all applications under the schedule for a new noise-sensitive residential use to respond to the requirements of this clause.

Analysis

Key analysis commentary related to Proposition 1 includes:

- It is a critical proposition for the formal implementation of the SKLMP into the Planning Scheme.
- The Stage 1 Report adopted Council's preliminary SKLMP boundary, but did not document a detailed review to confirm the methodology of any review undertaken.
- The Stage 1 Report including limited discussion regarding the proposed expansions to the SKLMP, but did not provide any substantial justification for the expansion to include Greeves Street Mixed Activities Precinct.
- The SKLMP boundary analysis and recommendations as documented within this report functions to provide the strategic justification of the SKLMP boundary should to be implemented via Clause 53.06 (i.e. referenced at Clause 1.0, with the SKLMP map added at Clause 4.0).

Conclusion

Proposition 1 is strongly supported, where the SKLMP should be identified at Clause 1.0 as an area where Clause 53.06 applies, and for the SKLMP boundary map to also be included at Clause 4.0, along with a necessary cross reference to proposed Clause 13.07-3L St Kilda Live Music Precinct Plan, to highlight where the SKLMP plan is proposed to be implemented into the Planning Scheme.

As a more general observation, the implementation of the SKLMP into the Planning Scheme via Clause 53.06 will broadly function to elevate an awareness of it. However, as the SKLMP will be implemented through a Clause 53.06 and other local policy content, it does not operate in the same way as a zone of overlay control, where all zone and overlay controls applicable to a piece of land are specifically shown on a planning property report. This is one disadvantage of the SKLMP only being implemented via a Clause 53.06 Schedule and associated local policies. However, should targeted built form and noise attention requirements be sought to be implemented in future for the SKLMP, this would logically occur through the use of a Design and Development Overlay (DDO). Should that be facilitated, such a DDO would be listed on all applicable

planning property reports, thereby further elevating the awareness and role of the SKLMP. Refer to Proposition 2 for further commentary on this matter.

Proposition 2: undertake further acoustic analysis

Undertake further investigation on the merit of applying an alternative acoustic attenuation standard to noise-sensitive residential uses within the St Kilda Live Music Precinct (in the form of a base noise insulation level that must be met at the boundary of any proposed future noise sensitive residential uses), in combination with advocacy to State Government for changes to the Environment Protection regulations to facilitate this outcome.

Analysis

Seeking further acoustic analysis as suggested by Proposition 2 is anticipated to be a lengthy and potentially complicated process to undertake. However, if choosing to not undertake such acoustic investigations at this point in time, it does not constitute an impediment to seeking to implement positive policy support for the SKLMP into the Port Phillip Planning Scheme. Through the intended implementation of the SKLMP into the Port Phillip Planning Scheme, it will make it a leading strategic initiative, given to date no LMP framework has been implemented anywhere else within the state of Victoria. Proposition 2 could always be separately pursued in future once the SKLMP is formally embedded into the Port Phillip Planning Scheme.

The intent of Proposition 1, being the implementation of a declared SKLMP within the Port Phillip Planning Scheme, is the first and significant step in protecting opportunities for live music in St Kilda, including both existing and proposed live music venues. Assuming this is able to be successfully implemented, Proposition 2 would be able to be investigated later as appropriate.

Based on potential future acoustic investigations and analysis, should at a point in time alternative acoustic attenuation standards be deemed suitable for implementation, they would logically be implemented through a targeted Design and Development Overlay (DDO). More specifically it is anticipated that the Design and Development Overlay (DDO) would be targeted at all land designated via Clause 53.06 as being 'core live music activity area' and associated 'buffer area', where it would require any new proposal for a noise sensitive residential use to provide appropriate noise attenuation. However, in the absence of technical noise attenuation requirements at this point in time, it is not possible to pursue the implementation of a targeted Design and Development Overlay (DDO).

Conclusion

Council should immediately pursue implementation of positive policy support for the SKLMP within the Port Phillip Planning Scheme via a formal Planning Scheme Amendment. Subsequent to the implementation of planning policy content in support of the SKLMP, Council should consider and determine the potential timing for potential future acoustic investigations and analysis to be undertaken.

Proposition 3A: apply Clause 53.05 to venues of frequent use

Use clause 3.0 of the schedule to Clause 53.06 to expand the definition of a 'live music entertainment venue' to apply to select venues used for frequent live music performances and live music activities.

The Stage 1 Report and appendices nominated the following venues for inclusion in Clause 3.0 of a Schedule to Clause 53.06, which based on an initial review are generally supported.

Venue	Location/Address	Type of land use	Rationale
Theatreworks	14 Acland Street, St Leonards Ave, St Kilda VIC 3182	Theatre	Frequently used for live music performances.
Allan Eaton Studios	80 Inkerman Street, St Kilda VIC 3182	Recording studio	Recording studios can be used for rehearsal studio purposes as well ¹³ .
National Theatre Melbourne	20 Carlisle St, (Cnr Barkly St) St Kilda VIC 3182	Theatre	Frequently used for live music performances.
Catani Gardens		Public open space	Used to host live music acts (6 music events per year) and should be considered an outdoor live music entertainment venue.
Cleve Gardens		Public open space	
Alfred Square		Public open space	
South Beach Reserve		Public open space	
O'Donnell Gardens		Public open space	
Veg Out Community Gardens		Public open space	

Source: page 32 Echelon Planning: St Kilda Live Music Precinct Planning Study: Planning Proposition Report.

Analysis

- This Proposition is considered logical and is strongly supported as it represents the correct and intended functional use of the Clause 3.0 of a Schedule to Clause 53.06.
- It also provides a mechanism to acknowledge and include selected existing venues within proximity to, but outside of the SKLMP boundary.
- Through the Stage 2 review and analysis, the venues and public open spaces identified in the table above are supported for inclusion in Clause 3.0 of a Schedule to Clause 53.06. However, an exception is highlighted for the National Theatre, as this venue is located within the core area of the SKLMP, and therefore does not need to be separately identified at Clause 3.0 of a Schedule to Clause 53.06.
- Peanut Farm Reserve and J Talbot Reserve are both nominated on the CoPP Preliminary SKLMP boundary as a public open space that currently or may host events with live music, but are omitted from the table above. It is therefore recommended both of these public open spaces are included in Clause 3.0 of a Schedule to Clause 53.06.
- An existing venue omitted from the above table is the The Crest Hotel, 47 Barkley Street, St Kilda. It is recommended this venue is included at Clause 3.0 in Clause 3.0 of a Schedule to Clause 53.06.
- An existing public space omitted from the above table is the St Kilda Triangle Carpark which has hosted live music events previously. It is therefore recommended this venue is included at Clause 3.0 of a Schedule to Clause 53.06.
- Although the table at Schedule 3.0 to Clause 53.06 allows for 'conditions and limitations' to be listed for nominated locations, it is not proposed for any conditions or limitations to be imposed. This is due to the CoPP maintaining control over the use of public open spaces for public events through the granting of applicable leases and licences, with such approvals operating outside of the formal statutory planning framework.
- It is further noted that the CoPP has a current and adopted Outdoor Events Policy (Version 2, June 2022), which includes further cross references to Council's Events Strategy, Outdoor Events Guidelines, Outdoor Noise Management Guidelines, and Sustainable Outdoor Events Guidelines. Accordingly, any potential use of public open space for public events would be subject to these existing policies and guidelines at the time of a lease being granted.
- These existing policies and guidelines will also function to provide clarity to the wider CoPP community about potential events which may be hosted within public open spaces within the SKLMP.

Conclusion

- Seek to implement the finalised list of venues and open spaces for inclusion in Schedule 3.0 of Clause 53.06 as part of a Planning Scheme Amendment to implement the SKLMP and associated policy framework into the Port Phillip Planning Scheme.

Proposition 3B: apply Clause 53.05 to venues of infrequent use

Use clause 3.0 of the schedule to Clause 53.06 to apply to the select music venues currently used for infrequent live music events.

The Stage 1 Report and appendices nominated the following venues for inclusion in Schedule 3.0 of Clause 53.06, which based on an initial review are generally supported.

Venue	Location/Address	Type of land use	Rationale
Linden New Arts	26 Acland Street, St Kilda	Gallery	Occasional live music performances.
Sacred Heart Church	83 Grey Street, St Kilda	Place of Worship	Occasional live music performances associated with a place of worship.

Source: page 32 Echelon Planning: St Kilda Live Music Precinct Planning Study: Planning Proposition Report.

Analysis

- This Proposition is considered logical and is strongly supported as it represents the correct and intended functional use of the Clause 3.0 of a Schedule to Clause 53.06. It also provides a mechanism to acknowledge and include existing venues within proximity to, but outside of the SKLMP boundary.
- Venues and public open spaces identified in the table above are supported for inclusion in Clause 3.0 of a Schedule to Clause 53.06.
- An existing venue omitted from the above table is the Christ Church/Community Centre, 14 Acland Street. It is recommended this venue is included at Clause 3.0 in Clause 3.0 of a Schedule to Clause 53.06.
- Although Clause 3.0 to the Schedule of Clause 53.06 allow conditions and limitations to be imposed for a nominated venue, the nominated venues to be included in the schedule are existing uses. The purpose of listing such venues within Clause 53.06 is not to control use, but is rather to assist their protection under 'agent of change' principles where any new surrounding residential development is required to sound attenuate against potential noise. On this basis, it is not recommended for any conditions or limitations to be imposed on venues to be listed within Clause 3.0 to the Schedule of Clause 53.06

Conclusion

- Seek to implement the finalised list of venues for inclusion in Schedule 3.0 of Clause 53.06 as part of a Planning Scheme Amendment to implement the SKLMP and associated policy framework into the Port Phillip Planning Scheme.

Proposition 4A: update local planning policy framework

Update the Local Planning Policy Framework to formally identify the St Kilda Live Music Precinct, prioritise the establishment of live music entertainment venues within the precinct and require the application of the 'agent of change' principle.

More specifically, Proposition 4A is fully outlined in the Planning Proposition Report by Echelon Planning as follows:

- *The term 'live music entertainment' should be defined in local policy.*
- *The spatial extent of the St Kilda Live Music Precinct should be identified in local policy.*
- *The 'agent of change' principle should be expressed in local policy, to make it clear that it is the responsibility of the agent to change to address any noise impacts associated with locating live music entertainment venues and noise sensitive residential uses in proximity to each other within the St Kilda Live Music Precinct.*
- *New local policy should be included to overtly support existing and future live music entertainment venues within the precinct (i.e., distinguishing live music entertainment venues from other types of entertainment venues).*
- *Sub-precincts should be identified, along with policies which identify the types of live music entertainment venues that are supported within each area.*

New local policy would need to be prepared to provide guidance on how new noise sensitive residential uses within the St Kilda Live Music Precinct should be sited/designed to protect them from the impact of music noise from both current and potential future live music venues ¹⁵

The following clauses would require updating:

- *Municipal Planning Strategy (MPS) (Clause 02)*
- *Local strategies for management of music noise (Clause 13.05-1L).*
- *Defining sub-precinct areas where certain categories of live music entertainment venues are encouraged to locate (Clause 13.07-3L).*
- *Defining the live music precinct and measures which apply to ensure live music venues can co-exist with nearby residential and other noise sensitive land uses, including in sub-precincts (Clause 13.07-3L).*
- *Live music as a priority activity and the application of the 'agent of change' principle within activity centres (Clause 11.03-1L).*

¹⁵ *The application of this requirement could be limited to noise sensitive residential uses within those sub-precincts where all forms of live music entertainment venue are supported under local policy.*

Source: page 34 Echelon Planning: St Kilda Live Music Precinct Planning Study: Planning Proposition Report.

Analysis

- Proposition 4A is supported and should be broadly implemented as outlined, as the formal implementation of the SKLMP into the Port Phillip Planning Scheme will give it statutory recognition to inform and influence decision making on land use and development relating to live music entertainment venues.
- However, the underlined text is not supported, which primarily relates to the recommendations for the nomination and designation of sub-precincts within the SKLMP, or distinguishing live music entertainment venues from other types of entertainment venues.
- As is outlined in detail earlier within this report, the use of sub-precincts and ascribed levels of live music entertainment activity within the SKLMP risks overcomplicating the issue, which fundamentally seeks a Planning Scheme policy framework which supports current and future live music entertainment venues.
- A more streamline approach is considered to involve nominating a SKLMP with nominated 'core areas' and 'buffer areas', where a new live music entertainment venue in a preferred location can be considered on merit of the proposed use in context of its specific context and surrounds.

Conclusion

The overall intent of Proposition 4A is supported, except for the suggestions relating to defining a policy framework to address sub-precincts within the SKLMP or distinguishing live music entertainment venues from other types of entertainment venues. Appropriate Planning Scheme Amendment Documentation should be drafted in line with supported aspects of Proposition 4A.

Proposition 4B: clarifying definition of 'live music entertainment'

Clarify the definition of 'live music entertainment' to specifically exclude amplified pre-recorded music.

Analysis

A review of the Stage 1 Report and appendices including background documentation has sought to draw a distinction between 'live music entertainment venues' and venues such as bars, clubs and function centres which primarily rely on pre-recorded music. This suggestion is underpinned by the Noise Analysis Technical Report by Enfield Acoustics Noise Vibration (2023), which notes that the majority of community complaints are associated with bars, clubs and function centres which primarily rely on DJ's pre-recorded music. The technical report also makes the following observations regarding 'live music entertainment venues' (page 14):

More traditional live band rooms are less prone to this emission for two reasons:

- 1. Live band rooms do not typically rely on late night trading, when the frequency analysis is required.*
- 2. Live bands, acknowledging some obvious variance in this definition, are often weighted towards relatively higher frequencies when compared to electronic music which is weighted towards low frequencies.*

The intent of specifically excluding land-use which primarily relies on pre-recorded music seeks to squarely focus the proposed policy regime on 'live music entertainment venues' and not by default afford 'agent of change' protections to existing or future land-use which are not focused on live music. However, there is a broader issue at play, noting that a 'live music entertainment venues' is an undefined landuse within the Port Phillip Planning Scheme at Clause 73.04 Land Use Terms. Notwithstanding, a 'live music entertainment venue' is defined at Clause 53.06-2, as being:

- *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.*

Notably the above definition does not refer to or define pre-recorded music, rather refers to 'live music entertainment' and 'performance of music'. Despite this, it is noted that Council's own Live Music Action Plan 2021-2024 specifically includes nightclubs under its definition of a 'live music entertainment venues'. Given this, Proposition 4B is in direct opposition to Council's own adopted policy for live music. Therefore, as Council's own adopted Live Music Action Plan is clear that 'live music' extends to nightclubs, Proposition 4B is not accepted and not should be implemented as recommended.

Noting that Proposition 4B is not accepted, in the example a nightclub or a function centre, a Planning Permit would be required in accordance with the Commercial 1 Zone (C1Z), where an assessment of potential noise would need to be considered through application assessment phase. However, for a 'food and drink premises' which includes a 'bars' and 'restaurants', they typically do not require planning approval in the Commercial 1 Zone (C1Z), although may trigger a planning permit under Clause 52.27 Licenced Premises. Accordingly, the potential impacts of noise from pre-recorded music could only be considered through a planning permit for a licenced premises, liquor licensing conditions or otherwise existing local laws and EPA noise framework.

Conclusion

The intent of Proposition 4B is not supported, as it does not align with Council's own adopted Live Music Action Plan, which is clear that 'live music' extends to and specifically includes nightclubs.

5.2. Additional planning considerations

During the analysis of Stage 1 Reports a number of additional planning related issues which were identified. Each of these additional planning considerations are identified and analysed under separate headings below.

Planning consideration 1 – technical noise attenuation analysis

The Stage 1 Report included commentary regarding the need for additional technical noise analysis be undertaken, and highlighted issues relating to the scenario where new noise sensitive residential use could be proposed in an area where there is currently no live music entertainment venue. In the absence of an existing venue to respond to, it raises the question of what level is the minimum level of sound attenuation required to be applied.

This is partly addressed in the Stage 1 Report and appendices through the following observations:

Based on stakeholder interviews with the Department of Transport and Planning (DTP), applying Clause 53.06 to all land within the St Kilda Live Music Precinct would only require the noise sensitive residential use to include attenuation measures that will reduce noise levels from any existing live music entertainment venues¹² (¹² This interpretation would appear at odds with the stated purpose of Clause 53.06 to “encourage the retention of existing and the development of new live music entertainment venues”.

Source: page 28 Echelon Planning: St Kilda Live Music Precinct Planning Study: Planning Proposition Report.

Although additional technical noise analysis has not been undertaken as part of Stage 2 work, this does not prevent Council pursuing the implementation of a supportive policy framework for the SKLMP within the Port Phillip Planning Scheme. As a later stage of work, Council may choose to pursue in the medium and longer term to determine the appropriate noise attenuation standard to be applied following the introduction of local planning policy and controls for the SKLMP. As per earlier analysis, there are limitation of Clause 53.06 in being able to include targeted noise attenuation standards within the Schedule. However, should targeted noise attenuation standards be investigated and recommended, they would logically be applied via a targeted Design and Development Overlay (DDO).

Ultimately, additional detailed technical noise analysis could be investigated for implementation as a later refinement phase, should Council wish to pursue that in future following the implementation of positive planning support for the SKLMP within the Port Phillip Planning Scheme as recommended within this report.

Beyond the above commentary, Clause 53.06-3 is noted to include a requirement for a noise-sensitive residential use to align with the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017. In recognition of the proposed modifications to implement the SKLMP within the Port Phillip Planning Scheme, they have been drafted so as to not contradict EPA regulations, rather will function to support and work alongside them.

Planning consideration 2 – live music entertainment venue register

The Stage 1 Report at page 59 includes a recommended action to develop databases for live music venues and noise complaints (page 59). This recommended action is strongly supported, and while a live music entertainment venue register would function outside of the Planning Scheme framework, it constitutes a valuable tool for Council to track operations of live music entertainment venues within the SKLMP. Apart from Council maintaining an updated record of the current operations of live music entertainment venues, it would also function as an informative tool for any proposal for a noise sensitive residential use to be established within the SKLMP, and would provide a more targeted ability for such a new proposal to appropriately address the 'agent of change' principle.

However, the Stage 1 Report also identifies that a live music venues and noise complaint data databases is required to be documented as part of the provision of necessary strategic justification for a Planning Scheme Amendment to implement the SKLMP into the Port Phillip Planning Scheme. It is considered this recommendation is not well founded, nor is it considered to be a fundamental requirement to justify a Planning Scheme Amendment to implement the SKLMP.

Designating the SKLMP and requiring that is formally referenced within the policy framework of the Port Phillip Planning Scheme aims to protect both existing live music entertainment venues, as well as potential future ones. The core live music activity area of the SKLMP is predominantly focused on commercial zones within St Kilda, as being the areas where appropriately managed but privately run live music entertainment venues are sought to be encouraged. The presence of existing venues certainly supports the intent of SKLMP, but equally theoretical absence does not undermine the policy intent which is sought. All pre-existing noise complaints are addressed under the current systems relating to EPA regulations, Local Laws and Liquor Licencing, and the potential implementation of the SKLMP into the Port Phillip Planning Scheme does not diminish or undermine obligations under those frameworks.

Planning consideration 3 – additional economic and social research

The Stage 1 Report includes commentary suggesting that additional economic and social research is required to support and strategically justify a Planning Scheme Amendment to implement the SKLMP into the Port Phillip Planning Scheme. It is considered this recommendation is not well founded, nor is it considered to be a fundamental requirement in order to justify a Planning Scheme Amendment to implement the SKLMP.

Existing economic and social analysis conducted by Council is focused at a municipal wide scale, and is considered ample to appropriately illustrate the cultural and economic benefits of supporting a live music within Port Phillip and St Kilda specifically. Council's preparation and adoption of the Live Music Action Plan: 2021-24 (2021) and St Kilda Live Music Precinct Policy (2023) are key aspects of this work.

Furthermore, Council's current work on the Spatial Economic & Employment Framework (2023) (which itself cross references other documents including: Council Plan 2021-2031; Port Phillip Creative and Prosperous City Strategy 2023-2026; and the Live Music Action Plan 2021-2024) rounds out substantial work in this space. Further commentary on these documents is provided in this Stage 2 Report in Section 3.0.

Planning consideration 4 – residential use at upper levels in ‘core area’

The Stage 1 Report and appendices make only passing reference to either existing or future residential development at upper levels, other than to make some general statement acknowledging there is potential for land-use conflict between residential land-use and live music entertainment venues.

In order to expand upon this point, it is important that any proposed future policy framework is clear in highlighting that the ‘agent of change’ principle is to be applied to all new sensitive residential land-use within the entirety of the SKLMP. More specifically it would be highlighting that the ‘agent of change’ principle would equally apply to all new sensitive residential land-use both within the designated ‘buffer areas’, as well as the ‘core areas’ where live music entertainment venues are encouraged, but where with the vertical nature of buildings residential land-use at upper levels is a clear possibility.

Equally, a new live music entertainment venue within the core live music activity area would need to address existing residential land-use at upper levels, given the new venue would be the ‘agent of change’. However, the policy framework to be devised should also acknowledge that while residents within the core live music activity area should be protected from excessive intrusion from music noise, they will experience a higher outdoor ambient noise environment, and as an example cannot expect quiet internal noise levels with open windows.

Planning consideration 5 – designation of Public Open Spaces within the SKLMP

The use of public open spaces for live music events typically does not trigger any statutory planning approvals for the use and development of land under the Port Philip Planning Scheme. Notwithstanding this, Clause 53.06 has been utilised to define selected public open space areas as a ‘live music entertainment venue’ within the core live music area the SKLMP.

Specifically, Clause 53.06-2 defines a ‘live music entertainment venue’ as:

- 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.

The third dot point listed above applies to venues that do not fall into the land use terms set out in the first two dot points. The key issue is consider is how widely this third dot point can be interpreted, and, whether it can be interpreted as extending to spaces which function as public open space and are used at times to hold live music entertainment. When interpreting Clause 53.06-2, the inclusion of the words ‘any other venue’ clearly provides flexibility as to what type of venue can be included in the Schedule. The intent of flexibility was specifically referenced within the Explanatory Report for Amendment VC120, which stated:

‘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’.*

* - now located at Clause 53.06

Additionally, it is highlighted that the definition at Clause 53.06-2 is silent on whether it relates to indoor or outdoor activities, while Clause 53.06-3 Requirements to be met includes reference to both indoor and outdoor live music. Based on the above, the proposed approach to statutory interpretation allows Clause 53.06-2 to be interpreted that it can be applied to public open space.

With reference to the nominated purposes of *Clause 53.06 Live Music Entertainment Venues*, it outlines the importance of live music entertainment and implementing the 'agent of change' principle. Functionally this is both to protect 'live music entertainment venues' from encroachment from 'noise sensitive residential uses' and to ensure 'noise sensitive residential uses' have appropriate noise attenuation. In considering these interrelated issues, the focus of Clause 53.06-2 is on the venue itself, rather than the underlying zoning, reservation, ownership or control of the relevant land.

While the primary use of public open space is for recreation, clearly it is possible for land to be used for more than one purpose, provided it is a separate purpose and not merely an activity that is incidental or ancillary to the main purpose.³

By designating selected public open space within the 'core live music area' of the SKLMP boundary, the intention is to utilise these areas as live music entertainment venues. The aim of the associated planning provisions functions to facilitate the frequent and regular use of designated public open space as live music entertainment venues to be established as a separate or independent use of the land. In recognition of this, it is important to note that all events on designated public open space would be required to operate in accordance with the adopted CoPP Outdoor Events Policy (Version 2, June 2022), which includes further cross references to Council's Events Strategy, Outdoor Events Guidelines, Outdoor Noise Management Guidelines, and Sustainable Outdoor Events Guidelines.

In context of the SKLMP, this approach is justified and underpinned by the fact that St Kilda has a long-established history of hosting live music entertainment on public land, and particularly on foreshore open spaces. More specifically, between June 2023 and June 2024, the City of Port Phillip hosted 21 live music events in public open spaces within the precinct boundaries. This number is expected to increase as the industry recovers from the impact of the COVID-19 pandemic.

In order to formally define public open space areas within the SKLMP as a 'live music entertainment venue' (i.e. under the third dot point of the definition listed at Clause 53.06-2), they are required to be specifically listed at the Table at Schedule 3.0, while the Table further allows for 'conditions and limitations' to be imposed for nominated locations. In recognition of this, it is recommended for all relevant public open space areas be added to this table as a 'live music entertainment venue'. However, it is not recommended for any conditions or limitations relative to each area to be imposed, as the use of public open space would be facilitated in line with the adopted CoPP Outdoor Events Policy (Version 2, June 2022), which includes further cross references to Council's Events Strategy, Outdoor Events Guidelines, Outdoor Noise Management Guidelines, and Sustainable Outdoor Events Guidelines. Accordingly, any potential use of public open space for public events would be subject to these existing policies and guidelines at the time of a lease being granted, with this assessment framework operating outside of the statutory planning approvals framework.

Ultimately the designation of public open space areas as a 'live music entertainment venue' under the Clause 53.06 will functionally invoke the 'agent of change' principle for any new 'noise sensitive residential use' which may be proposed in close proximity to the core live music areas. However, to ensure clarity of the SKLMP map in providing a clear distinction between 'core areas' and 'buffer areas', it is recommended that the map is updated to designate public open space areas as being part of the 'core live music area'. This mapping modification requires only a minor update to the map legend, involving an adjustment to the relevant text.

³ Refer to VCAT 'Red Dot' decision regarding land use principle (Wellington v Surf Coast Shire Council & Ors (Red Dot) [2011] VCAT 2317).

6. Current guidance: Planning Scheme implementation

The State Government has released a number of documents which provide important guidance on the appropriate application of Planning Scheme controls relating to live music and licenced venues. Two of the key documents relating to such State Government guidance are:

- Planning Practice Notice 61 (PPN61): Licensed premises: Assessing cumulative impact (2022).
- Planning Practice Note 81 (PPN81): Live Music and Entertainment Noise (2022).

Prior to an analysis of the role and influence of these documents being documented below, an extremely important point to highlight is that PPN61 & PPN81 were both issued in 2022 so constitute current and up to date State Government guidance which is strongly relevant to the current matter.

A summary of the relevant commentary of PPN61 & PPN81 as applicable to the scope of the current project work is outlined below.

6.1. PPN61: Licensed premises: Assessing cumulative impact

Planning Practice Note 61 was introduced in May 2022, where its introduction clarifies its purpose as being:

1. *Explain cumulative impact in relation to licensed premises in the planning system.*
2. *Provide guidance on preparing and assessing an application under clause 52.27 of the planning scheme to:*
 - *assist a permit applicant when considering and responding to the potential cumulative impact of their proposal*
 - *support a council when assessing the cumulative impact of licensed premises as part of a planning permit application.*

PPN further sets out the role of assessing cumulative impact both in a positive and negative context.

It also establishes the extent of the land area to be included in a cumulative impact assessment, being all land within 500m radius of the proposed venue, but also taking into account physical barriers in the assessment areas.

PPN61 also outlines as a guide the types of information that needs to be prepared to assist in the assessment of the proposal and its potential cumulative impacts.

An example flowchart is also included to assist Councils in undertaking a final cumulative impact assessment.

Analysis:

PPN61 is a document of clear relevance to the assessment of planning permit applications for all licenced venues within St Kilda, and particularly those within the area anticipated for inclusion with a recommended SKLMP boundary. On this basis, PPN61 will retain its role to inform and influence all planning permit applications for licenced venues within a future SKLMP, whereby a cumulative impact assessment can be undertaken at the time with regard to the specifics of the subject site and its surrounds. However, it is not considered that PPN61 has a specific role with the analysis and determination of a SKLMP boundary.

6.2. PPN81: Live Music and Entertainment Noise

Planning Practice Note 81 was introduced in November 2022, where its introduction clarifies its purpose as providing guidance about the operation of *Clause 53.06 (Live Music Entertainment Venues)*.

Key aspects of the PPN81 includes:

- States the role of Clause 53.06 in that applies to a planning permit application for a *'live music entertainment venue'*, or a *'noise sensitive residential use'* within 50 metres of a *live music entertainment venue*.
- Restates the Clause 53.06 definition of a *'live music entertainment venue'* includes: *'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 clause 53.06, subject to any specified condition or limitation'*.
- Restates the Clause 53.06 definition of a *'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'*.
- Clarifies the role of the agent of change principle to manage the relationship between live music venues and residential uses, meaning that the agent of change principle assigns responsibility for noise attenuation measures to the *'agent of change'* – a new use or development that is introduced into an existing environment. This is further explained by the following:
 - *In practical terms this means that if a new or an existing live music venue seeks to establish or expand, they will be responsible for attenuating any noise effects that are caused by that change on nearby residential properties.*
 - *Similarly, a new residential development close to an existing live music venue will be responsible for noise attenuation of its building to protect.*
- PPN81 further sets out details relating to information to be submitted with the application; the methods in which to meet the requirements; understating noise limits specified in Clause 53.06-3; and writing appropriate permit conditions.
- PPN81 provides some guidance on attenuating measures for live music venues that may help meet the requirements of Clause 53.06 including:
 - *Implementing a venue management plan focussed on minimising noise.*
 - *Positioning entertainment rooms, the stage, and loudspeakers to increase the distance between the noise source and any noise sensitive residential use orienting the stage or loudspeakers of external entertainment spaces to direct noise away from any noise sensitive residential use.*
 - *Incorporating measures such as acoustic glazing, wall, ceiling, and roof construction.*
 - *Sealing gaps, joints and service penetrations and using acoustic insulation.*
 - *Using setbacks and acoustic fencing limiting noise leakage by using vestibule / sound-lock entry arrangements.*
 - *Installing a sound limiter to cap the volume of any amplified sound to an appropriate level.*

While all the above measures will be helpful, some may have a limited effect on noise emissions in different circumstances. An acoustic engineer can advise on measures that can achieve the requirements of clause 53.06.
- PPN81 provides some guidance on attenuating measures for noise sensitive residential uses that may help meet the requirements of Clause 53.06 including:
 - *Locating noise-sensitive rooms (particularly bedrooms) away from significant noise exposure by using spaces like walkways, laundries, and storage as a buffer.*

- *Using acoustic glazing, wall, ceiling, and roof construction.*
- *Sealing gaps, joints and service penetrations and using acoustic insulation.*
- *Using setbacks and acoustic fencing.*
- *Using a noise masking system (for example by relying on heating, ventilation, or air-conditioning noise).*

Analysis:

PPN81 is a document of clear relevance to the assessment of applicable planning permit applications, which includes a new 'noise sensitive residential use' within 50m of an existing 'live music entertainment venue' or for a new or expanded 'live music entertainment venue' within 50m of an existing 'noise sensitive residential use'. PPN81 will retain a critical role in informing and influencing all relevant planning permit applications.

While PPN81 retains its central role in the assessment of relevant planning applications, its key principles relating to the assessment of potentially conflicting uses within 50m (which itself is drawn from Clause 53.06) has formed the key methodology which underpins the analysis and designation of the SKLMP boundary.

On this basis, PPN81 will retain its role to inform and influence all relevant planning permit applications, whereby compliance with Clause 53.06 can be considered based on the specifics of the proposal, the subject site and its surrounds.

7. Stage 2 Planning Scheme Amendment implementation

The following outlines the new planning provisions required to formally implement the SKLMP into the Port Phillip Planning Scheme.

The draft version of the Planning Scheme Amendment documentation is included in Appendix 4, with all amended and additional text proposed are shown as 'tracked changes'.

A summary list of the proposed changes to the Port Phillip Planning Scheme for formal implementation through a Planning Scheme Amendment includes:

- **Clause 02.02 Vision:** update existing vision statement text to positively support the live music industry in Port Phillip.
- **Clause 02.03 Strategic Directions:** add a new sub-heading for the SKLMP with positive policy content at **Clause 02.03-3 Environmental risk and amenity**.
- **Clause 11.03-1L St Kilda Major Activity Centre** add positive policy content for the SKLMP.
- **Clause 13.07 Amenity, Human Health and Safety:** add a new SKLMP focused strategy at **13.07-3L St Kilda Live Music Precinct** to include positive policy content for the SKLMP, nominate policy guidelines for the assessment of applications within the SKLMP, and include the updated and refined SKLMP boundary map.
- **Clause 53.06 Live Music Entertainment Venues:** implement a new Schedule which:
 - At **Clause 1.0** nominates the SKLMP as an area where Clause 53.06 applies, and include a necessary cross reference to proposed **13.07-3L St Kilda Live Music Precinct**.
 - Add the updated and refined SKLMP boundary map within Clause 53.06 at **Clause 4.0**.
 - At **Clause 3.0** nominate the following venues where Clause 53.06 applies:
 - Theatreworks
 - Allan Eaton Studios
 - The Crest Hotel
 - Linden New Arts
 - Christ Church/Community Centre
 - Sacred Heart Church
 - At **Clause 3.0** nominate the following public open spaces within the SKLMP where Clause 53.06 applies, but without imposing any conditions or limitations, for:
 - South Beach Reserve
 - Catani Gardens
 - Cleve Gardens
 - Alfred Square
 - St Kilda Triangle
 - O'Donnell Gardens
 - Veg Out Community Gardens
 - Peanut Farm Reserve
 - J Talbot Reserve

Further commentary regarding the strategic justification of the proposed implementation of the SKLMP is outlined in following report sections.

7.1. Provision of positive policy support for SKLMP

The CoPP is the first Council to move forward with Live Music Precinct planning changes since the Victorian Government updated the State planning policy in September 2020. This means that although there are no precedent examples to guide overall scope and approach, the Stage 2 Report is seeking to implement proactive and positive policies to establish a strong and strategic foundation for subsequent work, which may include undertaking additional targeted technical noise analysis and potential noise controls being sought to be formally implemented.

Accordingly, a key aspiration of the proposed planning scheme implementation is to embed the SKLMP map within the Port Phillip Planning Scheme (i.e. within Clause 02.02 Vision and Clause 02.03 Strategic Directions), and ensure positive policy support is clearly outlined within a number of relevant Clauses.

A key aspect of seeking to provide positive policy support for the SKLMP is proposing an amendment to the existing Port Phillip Planning Scheme to ensure objectives and strategies that broadly function to:

- Encourage the development and landuse of appropriate live music venues and activity within the within the core area of the declared St Kilda Live Music Precinct.
- Require new noise sensitive residential development within the St Kilda Live Music Precinct to appropriately mitigate against potential noise, under the agent of change principle.

Such positive policy support for the SKLMP is coupled with other noise released policies which include objectives and strategies which function to:

- Assist the management of noise effects on sensitive land uses within the St Kilda Live Music Precinct, while acknowledging that residents and businesses in and around the declared core area may experience a higher ambient noise environment than expected in typical urban/suburban location.
- Ensure venue operators appropriately manage potential noise impacts in line with relevant regulations.

In outlining commentary regarding the strategic justification of the proposed amendments, it is highlighted that proposed content relating the provision of positive policy support for the SKLMP, as well as general content relating to noise within the SKLMP, would not function to counter or undermine other policies and requirements for noise under separate regulations and legislation sitting outside of the planning system.

The current project is focused on implementing the SKLMP into the Port Phillip Planning Scheme, where the proposed amendments seek to ensure that Council's established strong support for the establishment of the SKLMP is framed by general considerations of how noise considerations and potential complaints will be assessed in future.

However, with regard to the scope of implementation recommendations made as part of this Stage 2 report, the implementation of a declared SKLMP within the Port Phillip Planning Scheme will function as the first and significant step in protecting opportunities for live music in St Kilda, which will extend to both existing and proposed live music entertainment venues.

Assuming this is successfully implemented, additional acoustic analysis can be investigated later as appropriate. Based on potential future acoustic investigations and analysis, should at a point in time alternative acoustic attenuation standards be deemed suitable for implementation, they would logically be implemented through a targeted Design and Development Overlay (DDO).

7.2. Proposed Schedule to Clause 53.06

The proposed Schedule to Clause 53.06 Live Music Entertainment Venues functions to nominate the SKLMP at Clause 1.0 as an area where Clause 53.06 applies, and is further proposed to include a cross reference to Clause 13.07-3L St Kilda Live Music Precinct Plan, where the final SKLMP boundary map will be embedded within the Port Phillip Planning Scheme.

As outlined in earlier sections of the report, it is also recommended that further locations to be specifically listed in Clause 3.0 to the Schedule to Clause 53.06, including:

- Existing public open spaces designated as being within the 'core live music area' of the SKLMP boundary, including:
 - South Beach Reserve
 - Catani Gardens
 - Cleve Gardens
 - Alfred Square
 - St Kilda Triangle
 - O'Donnell Gardens
 - Veg Out Community Gardens
 - Peanut Farm Reserve
 - J Talbot Reserve
- Various existing venues located outside of, but in close proximity to the declared SKLMP boundary, including:
 - Theatreworks
 - Allan Eaton Studios
 - The Crest Hotel
 - Linden New Arts
 - Christ Church/Community Centre
 - Sacred Heart Church

Notably Clause 3.0 to the Schedule to Clause 53.06 allows conditions or limitations to be imposed for nominated locations. For public open spaces areas to be included at Clause 3.0 within the Schedule to Clause 53.06, it is not recommended that any conditions or limitations are imposed. This is justified on the basis that the use of public open spaces would be facilitated in line with the adopted CoPP Outdoor Events Policy (Version 2, June 2022), which includes further cross references to Council's Events Strategy, Outdoor Events Guidelines, Outdoor Noise Management Guidelines, and Sustainable Outdoor Events Guidelines. Accordingly, any potential use of public open space for public events would be subject to these existing policies and guidelines at the time of a lease being granted, with this assessment framework operating outside of the statutory planning approvals framework. However, in order to provide clarity and to address and manage community expectations about how public open spaces will potentially be utilised for live music entertainment events, the functional operation of the adopted CoPP Outdoor Events Policy should be promoted and communicated to the CoPP community.

For other nominated venues to be included at Clause 3.0 within the Schedule to Clause 53.06, no conditions or limitations are recommended to be imposed. This is due to all nominated venues being existing uses, where the specific purpose of listing such venues within Clause 53.06 is not to control existing uses, rather is to assist in their protection under 'agent of change' principles. Listing these venues at Clause 3.0 within the Schedule to Clause 53.06 will function to ensure that any new residential development would be required to sound attenuate against potential noise. This is considered to be an appropriate, logical and strategically justifiable use of a Schedule to Clause 53.06.

Conclusion

As outlined within Section 7.0, it is recommended that a formal Planning Scheme Amendment is pursued by Council to implement positive policy support for the SKLMP within the Port Phillip Planning Scheme. This action will constitute the next logical strategic policy step, and which functions to build upon earlier Council strategy and policy work, including the City of Port Phillip Live Music Action Plan: 2021-24, and the St Kilda Live Music Policy.

Hansen Partnership

Melbourne | Byron Bay | Vietnam

Level 10 150 Lonsdale St

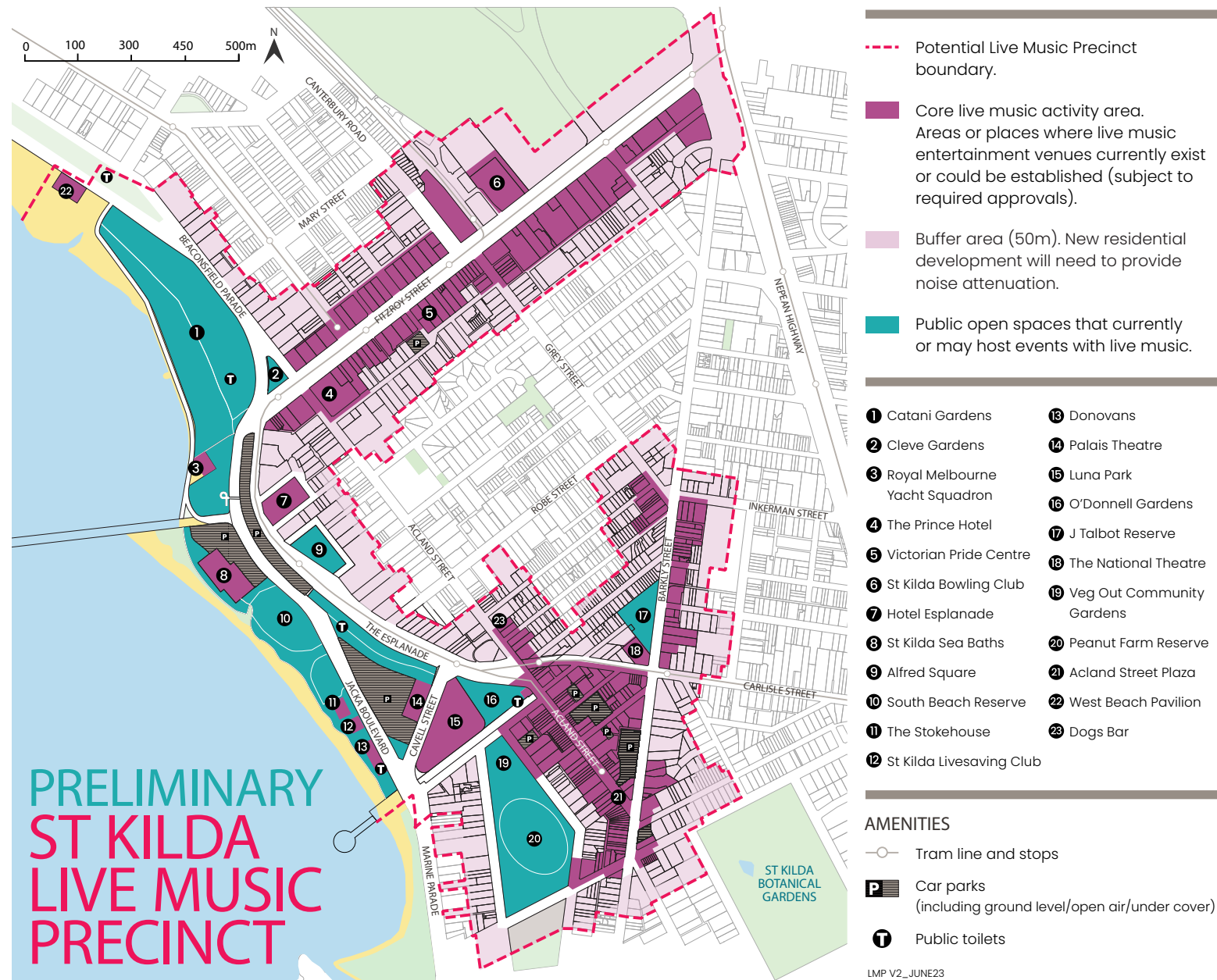
Melbourne VIC 3000

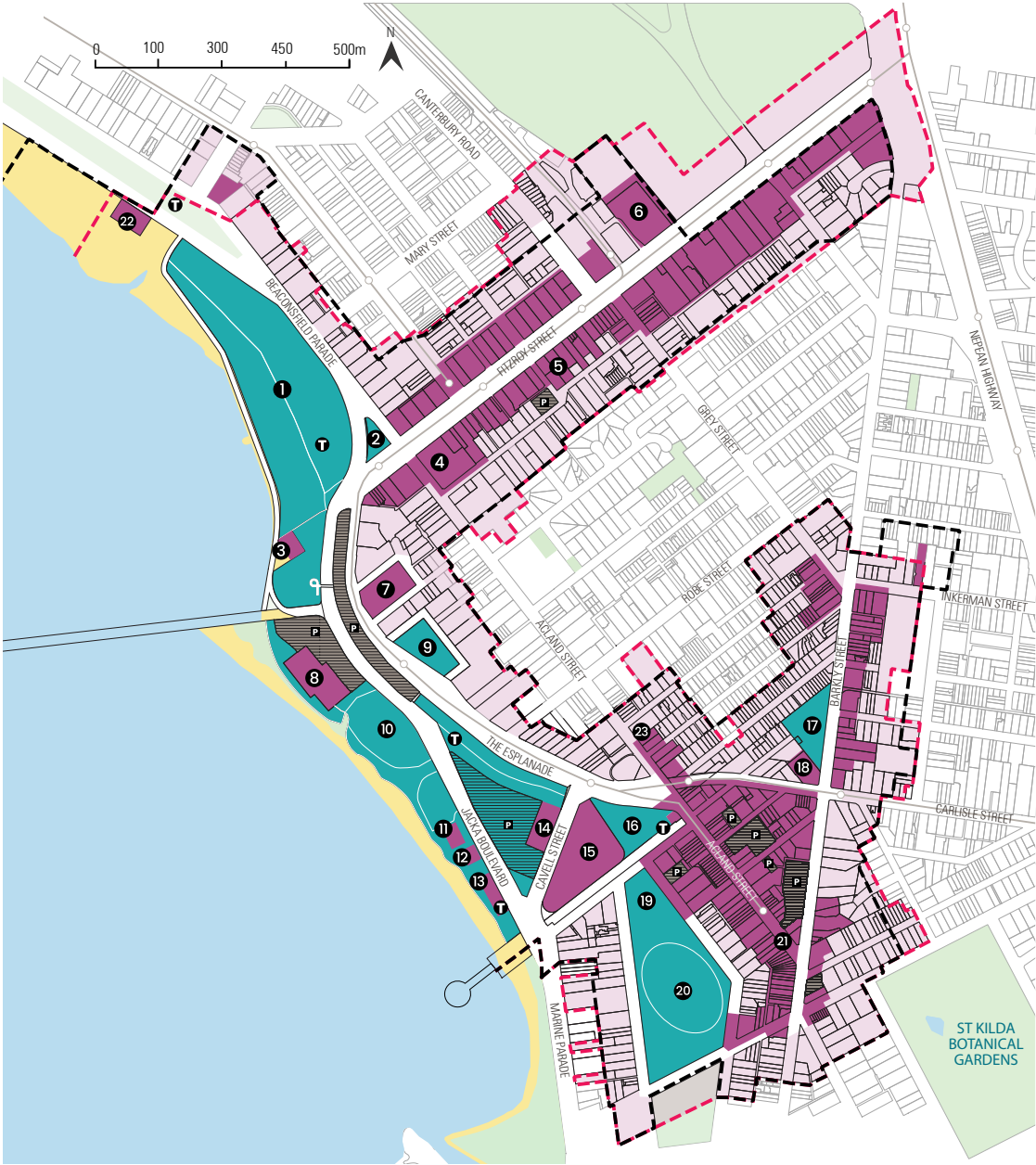
T 03 9654 8844

E info@hansenpartnership.com.au

W hansenpartnership.com.au

ABN 20 079 864 716





Comparison of Port Phillip Preliminary SKLMP boundary and Hansen's proposed revisions

- Hansen proposed updated to Live Music Precinct Boundary.
- City of Port Phillip Preliminary Live Music Precinct Boundary.
- Core live music activity area. Areas or places where live music entertainment venues currently exist or could be established (subject to required approvals).
- Buffer area (50m). New residential development will need to provide noise attenuation.
- Public open spaces that currently or may host events with live music.

St Kilda Landmarks

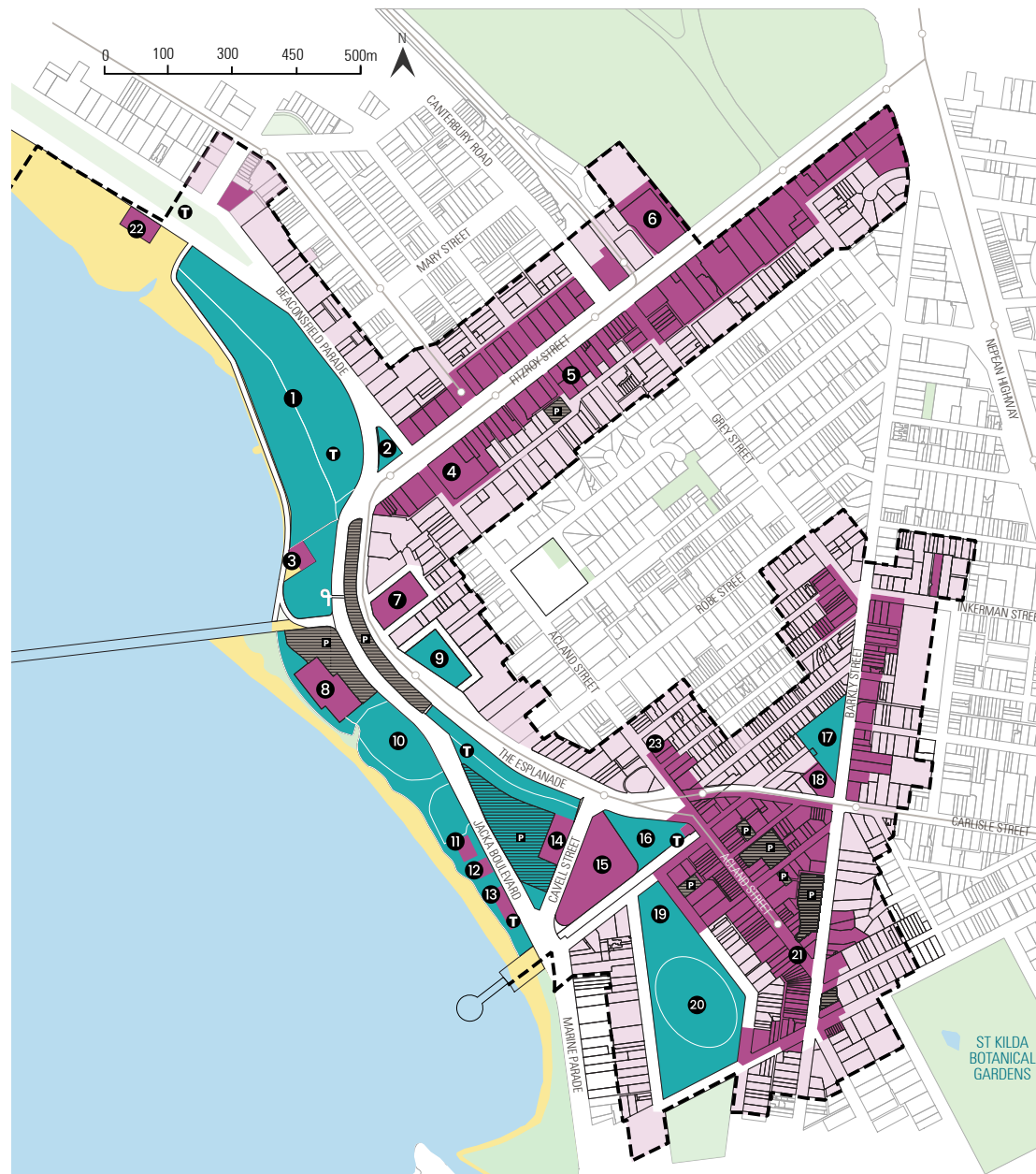
(note: not all existing music venues are shown)

- | | |
|----------------------------------|------------------------------|
| 1 Catani Gardens | 13 Donovans |
| 2 Cleve Gardens | 14 Palais Theatre |
| 3 Royal Melbourne Yacht Squadron | 15 Luna Park |
| 4 The Prince Hotel | 16 O'Donnell Gardens |
| 5 Victorian Pride Centre | 17 J Talbot Reserve |
| 6 St Kilda Bowling Club | 18 The National Theatre |
| 7 Hotel Esplanade | 19 Veg Out Community Gardens |
| 8 St Kilda Sea Baths | 20 Peanut Farm Reserve |
| 9 Alfred Square | 21 Acland Street Plaza |
| 10 South Beach Reserve | 22 West Beach Pavilion |
| 11 The Stokehouse | 23 Dogs Bar |
| 23 St Kilda Livesaving Club | |

AMENITIES

- Tram line and stops
- Car parks (including ground level/open air/under cover)
- Public toilets

LMP V4_NOVEMBER2023



Stage 2 SKLMP boundary

- Stage 2 updated St Kilda Live Music Precinct (SKLMP) boundary.
- Core live music area.
Areas or places where live music entertainment venues currently exist or could be established (subject to required approvals).
- Core live music area.
Public open spaces that currently or may host events with live music.
- Buffer area (50m). New noise sensitive residential development will need to provide appropriate noise attenuation.

St Kilda Landmarks

(note: not all existing music venues are shown)

- | | |
|----------------------------------|------------------------------|
| 1 Catani Gardens | 13 Donovans |
| 2 Cleve Gardens | 14 Palais Theatre |
| 3 Royal Melbourne Yacht Squadron | 15 Luna Park |
| 4 The Prince Hotel | 16 O'Donnell Gardens |
| 5 Victorian Pride Centre | 17 J Talbot Reserve |
| 6 St Kilda Bowling Club | 18 The National Theatre |
| 7 Hotel Esplanade | 19 Veg Out Community Gardens |
| 8 St Kilda Sea Baths | 20 Peanut Farm Reserve |
| 9 Alfred Square | 21 Acland Street Plaza |
| 10 South Beach Reserve | 22 West Beach Pavilion |
| 11 The Stokehouse | 23 Dogs Bar |
| 23 St Kilda Lifesaving Club | |

Amenities

- Tram line and stops
- P Car parks
(including ground level/open air/under cover)
- T Public toilets

PORT PHILLIP PLANNING SCHEME

02.02

VISION

14/04/2023
G203port
Proposed C220port

The vision in the *We are Port Phillip Council Plan 2017 – 2027* is for Port Phillip to be *‘Beautiful, Liveable, Caring, Inviting, Bold and Real’*.

The vision is shaped by a desire to celebrate history, protect character, and encourage inclusion and creativity, while planning for the future of a dynamic and evolving City.

Port Phillip will be a city:

- That produces low greenhouse gas emissions, is resilient to climate change and maximises use of environmentally sustainable modes of travel.
- That is creative and prosperous with a dynamic economy that connects and grows business as well as bringing arts, live music, culture and creative expression to everyday life.
- Of vibrant activity centres and employment areas, providing high accessibility to goods and services and prosperous conditions for all residents and businesses.
- That is liveable, with well-designed buildings that contribute to safe, lively, high amenity places with public spaces that are safe and inviting places for people to enjoy.
- Of diverse and distinctive neighbourhoods where well-designed new development is integrated with, and enhances our valued heritage and character and the beauty of our neighbourhoods.
- That respects and values its past, its diversity and its link with traditional owners.
- That is easy to get around, with 10-minute neighbourhoods that give locals access to shops, community spaces and a strong sense of place.
- With a range of affordable, accessible and diverse housing types to meet the needs of the population and is supported by a range of community facilities and services.
- That is inclusive; where community diversity and harmony are sustained and encouraged, and where members of our community feel connected through a strong sense of place and can participate in community life.
- With a healthy and safe environment for residents, workers and visitors.

PORT PHILLIP PLANNING SCHEME

Fishermans Bend Urban Renewal Area

The Fishermans Bend Urban Renewal Area (FBURA) is a declared project of State significance. It includes the major urban renewal precincts of Montague, Sandridge and Wirraway in the City of Port Phillip, and Lorimer and the Fishermans Bend NEIC (Employment Precinct) in the City of Melbourne.

The vision for FBURA is “a thriving place that is a leading example for environmental sustainability, liveability, connectivity, diversity and innovation” that will by 2050, accommodate 80,000 residents and 80,000 jobs and be Australia’s largest urban renewal *Green Star – Community*. FBURA is striving for a 6 Star *Green Star – Community* rating.

Council supports:

- Create thriving, lively, mixed-use neighbourhoods and a place of design excellence with highest densities of employment opportunities close to existing and planned public transport.
- Provide housing opportunities for a diverse community including at least six per cent of dwellings as Affordable Housing, with additional Social Housing dwellings provided as part of a Social Housing uplift scheme.
- Create a benchmark for sustainable and resilient urban transformation that supports the creation of a climate adept, water sensitive, low carbon, low waste community, addresses potential flood impacts with measures which maintain activity at ground level, and is designed to provide best practice waste and resource recovery management.
- Create a connected, permeable and accessible community that prioritises walking, cycling, and public transport use and supports 80 per cent of movements via active and public transport.

02.03-2

14/04/2023
C203port

Environmental and landscape values

Port Phillip is a highly modified urban environment with remnant areas of indigenous vegetation confined to the Port Phillip Bay foreshore and Ripponlea area. Replanting efforts have led to a number of significant sites of indigenous vegetation.

The foreshore is Port Phillip’s most outstanding natural and cultural asset and provides a number of functions including providing habitat for local flora and fauna and managing stormwater. Environmental management is essential in supporting the health of the Port Phillip Bay and ensuring that the foreshore remains an attractive destination that continues to support local biodiversity.

The City’s public open spaces and landscaping within road reserves, transport corridors and on private land provide an essential balance to Port Phillip’s urban environment and have a positive impact on the liveability and biodiversity of the City.

Council supports:

- Protecting Port Phillip’s natural environment and landscape values.
- Protecting and enhancing Port Phillip’s urban forest, including large canopy trees and vegetation.
- Protecting and enhancing Port Phillip’s green spaces and corridors to provide habitat to native flora and fauna.
- Reducing the environmental impact of urban areas on waterways and receiving bodies by managing stormwater quality and quantity.

02.03-3

14/04/2023
G203port Proposed C220port

Environmental risks and amenity

Climate change

Port Phillip is subject to the impacts of climate change, including increased heat, more extreme weather events, changed rainfall patterns, greater flooding due to overland flow and sea level rise, and increased erosion of the foreshore.



PORT PHILLIP PLANNING SCHEME

Designing and managing built form and physical infrastructure to better respond to a changing climate will contribute to improving the liveability and sustainability of the City for the benefit of the community. Reduced emissions and achieving sustainable land use and development within the built environment will help achieve a City that is adaptive and resilient to climate change.

Council supports:

- Ensuring development responds to a changing climate and helps mitigate against its impacts by:
 - Incorporating environmentally sustainable design.
 - Prioritising walking, cycling and use of public transport, shared transport modes and low-emissions vehicles.
 - Providing new housing and employment in locations close to activity centres and public transport.
- Creating a greener, cooler City that reduces urban heat island effect by:
 - Increasing canopy cover and diversity of tree species in public open spaces, road reserves and transport corridors.
 - Protecting and enhancing vegetation on private land and in development.
- Use and development of the foreshore that responds to the impacts of climate change.
- Use of sustainable and low energy infrastructure and renewable energy.
- Integrating water sensitive urban design in development to improve water quality to Port Phillip Bay and other receiving water bodies, reduce the impacts of localised flooding and sea level rise and to facilitate water conservation.
- Reducing potable water consumption through more efficient water use and establishing alternative water sources.
- Facilitating the maximisation of recycling and diversion from landfill, reduction in waste generation and the circular economy.

St Kilda Live Music Precinct

St Kilda's live music scene emerged in the 1970's and has played an important role in defining and contributing to the local character and establishing St Kilda's live music legacy, which is acknowledged nationally and internationally.

The St Kilda Live Music Precinct is an area in the City recognised for its high concentration of live music entertainment venues. They provide important social, cultural, and economic benefits, contributing to making Port Phillip an attractive place in which to live, work and visit.

The Precinct's purpose is to encourage and support opportunities for live music entertainment venues within the designated core area. It also ensures the primary responsibility for noise attenuation rests with the agent of change, either new live music entertainment venues or new noise sensitive residential uses within the precinct.

Council supports:

- Facilitating the St Kilda Live Music Precinct through encouraging the development and land use of live music entertainment venues within the designated core area.
- Ensuring new development for noise sensitive residential uses within the St Kilda Live Music Precinct incorporates measures to mitigate potential noise.

PORT PHILLIP PLANNING SCHEME

11.03-1L-06 St Kilda Major Activity Centre

07/08/2023
G243port Proposed C220port

Policy application

This policy applies to all land in the St Kilda Major Activity Centre as defined by the boundaries of the Commercial 1 Zone along Fitzroy and Acland Streets, St Kilda.

Objective

To reinforce the St Kilda Major Activity Centre as a significant retail, recreational, tourism, entertainment and leisure destination, whilst managing the cumulative impacts on local amenity and community safety.

Fitzroy Street

Strategies

Retain the spacious boulevard atmosphere of Fitzroy Street.

Promote the tourism and entertainment role of Fitzroy Street, which includes live music, while maintaining the local retail servicing role, including core retail along Fitzroy Street between Princes and Acland Streets.

Encourage office and non-retail commercial uses north of Princes Street and facilitate a transition to St Kilda Junction.

Encourage non-retail commercial uses and residential development on the north-west side of Fitzroy Street, between Beaconsfield Parade and Canterbury Road.

Ensure the design of new development respects:

- The slope of the street toward the sea.
- The wide pavements and spacious character of Fitzroy Street.

Acland Street

Strategies

Promote the tourism and entertainment role of Acland Street, which includes live music, while retaining the distinctive village atmosphere and local retailing services role.

Ensure new development respects the strong seaside location and the low scale, fine grain built form at the street edge.

PORT PHILLIP PLANNING SCHEME

13.07-3S

28/09/2020
VC183

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.

13.07-3L

Proposed C220port

St Kilda Live Music Precinct

Policy application

This policy applies to an application subject to Schedule to Clause 53.06 (Live Music Entertainment Venues) and within the St Kilda Live Music Precinct as shown on the plan to this clause.

Objectives

To recognise the important social, cultural, and economic benefits that live music contributes to the local community and City.

To facilitate a thriving live music industry by supporting the retention, growth, concentration, and operation of live music entertainment venues in the core live music area of the Precinct.

To facilitate the economic development of the Precinct by supporting live music sector employment and investment opportunities and resolving land-use conflicts.

To facilitate the development of well-designed and accessible new live music entertainment venues while minimising and managing any potential adverse off-site operational and amenity impacts on the community.

Strategies

Locate and cluster new live music entertainment venues within the core live music area to support the live music role and function of the Precinct.

Consider, and where appropriate, support and manage a higher ambient sound environment within the core live music area.

Ensure the agent of change (whether a new live music entertainment venue or a new noise-sensitive residential use) minimises and manages the amenity impacts through land use separation, siting, building design and operational measures.

Promote a diversity of live music venues, including location, size, number of patrons and hours of operation to support different performance spaces and levels of activity.

Support the use of land for food and drink premises, nightclubs, function centres or residential hotels that include live music entertainment and also rehearsal studios, where a permit is required.

PORT PHILLIP PLANNING SCHEME

Protect existing live music entertainment venues from encroachment by use or development that would compromise the ability of the venues to function effectively.

Enhance the sense of place of the Precinct by ensuring development responds to its context in terms of cultural identity and local character.

New live music entertainment venues

Ensure new live music entertainment venues, as the agent of change, minimise off-site operational and amenity impacts on existing noise sensitive residential uses.

Ensure new live music entertainment venues locate noise generating activities, away from habitable rooms (and in particular, bedrooms) and private open space of existing noise sensitive residential uses and incorporate acoustic attenuation measures.

New noise sensitive residential uses

Ensure that new noise sensitive residential uses, as the agent of change, provide appropriate noise attenuation measures to minimise the impacts of existing live music entertainment venues and protect internal amenity.

Ensure new noise sensitive residential use and development locates habitable rooms (in particular, bedrooms) and private open space away from existing and potential noise sources.

Policy guidelines

New live music entertainment venues

Consider as relevant:

- The nature of the proposed use, including:
 - .. The hours of operation.
 - .. The patron and staff numbers.
 - .. The potential off-site amenity impacts associated with the proposed use, as well as how these impacts will be managed and mitigated.
- The current land use of the site and land use of adjoining properties.
- The location and layout of the existing/proposed building on the site, including the location of all external windows, doors, and car parking areas.
- Any existing noise sensitive residential use within 50 metres, including details of habitable room windows, balconies, and secluded private open spaces.
- The design and siting of new live music entertainment venues, including:
 - .. The location of entertainment rooms and spaces, stages, and loudspeakers.
 - .. The attenuation measures, such as acoustic glazing and insulation.
 - .. The use of setbacks and acoustic fencing.
 - .. The location of any proposed external lighting and signage associated with the proposed use.
 - .. Whether the site and facilities are accessible to all.

New noise sensitive residential uses

Consider as relevant:

- The nature of the proposed use.
- The current land use of the site and land use of adjoining properties.

PORT PHILLIP PLANNING SCHEME

- The location and layout of the existing/proposed buildings on the site, including the location of all external windows, doors, and car parking areas.
- Any existing live music entertainment venue within 50 metres, including details of habitable room windows, balconies, and secluded private open spaces.
- The design and siting of new noise sensitive residential development, including:
 - .. The orientation of windows and ventilation systems.
 - .. The location of habitable rooms (in particular bedrooms) and private open space.
 - .. The attenuation measures, such as acoustic glazing and insulation.
 - .. The use of setbacks and acoustic fencing.

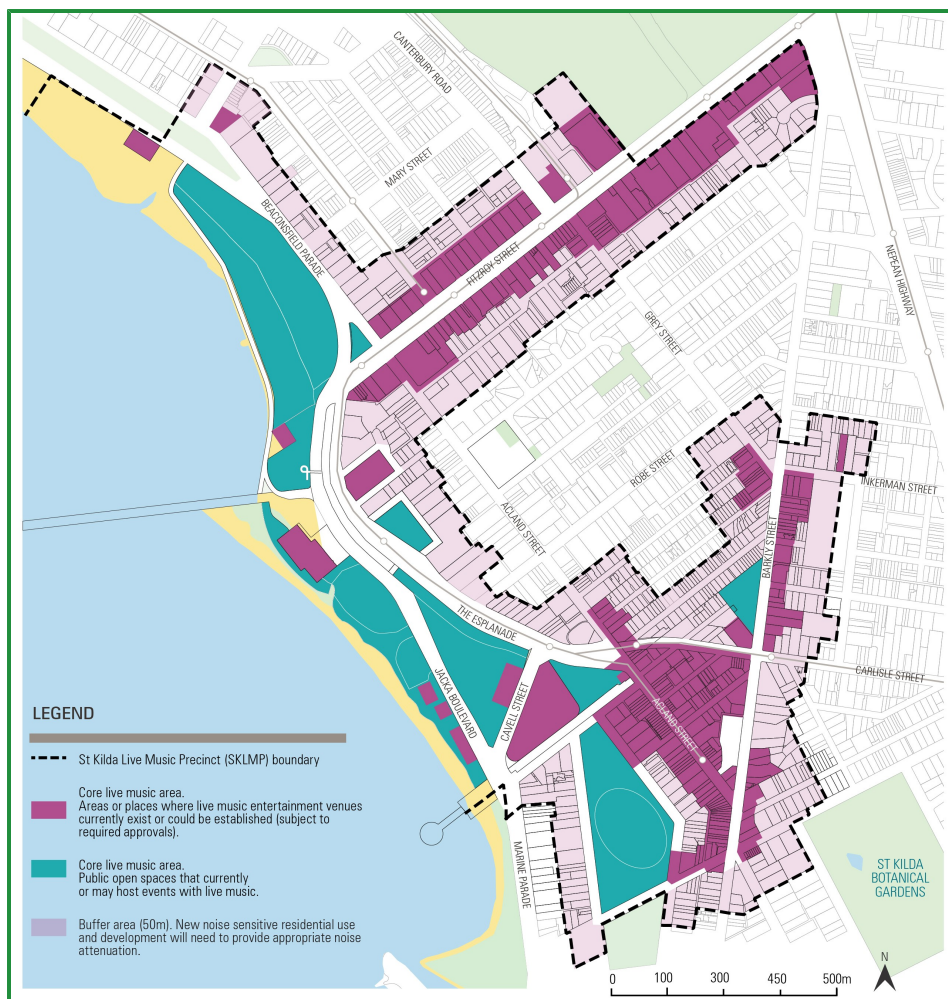
Policy documents

Consider as relevant:

- *St Kilda Live Music Precinct Policy* (City of Port Phillip, June 2023)
- *St Kilda Live Music Precinct Planning Study Report* (Hodyl & Co, Echelon Planning and Enfield Acoustics, July 2023)
- *St Kilda Live Music Precinct Planning Study Stage 2: detailed investigations & recommendations* (Hansen Partnership, March 2024)

PORT PHILLIP PLANNING SCHEME

St Kilda Live Music Precinct Plan



PORT PHILLIP PLANNING SCHEME

18/02/2021
GC175

SCHEDULE TO CLAUSE 53.06 LIVE MUSIC ENTERTAINMENT VENUES

1.0 Areas to which Clause 53.06 does apply

04/05/2022
VC240 Proposed C220port

Name of area	Description
None specified St Kilda Live Music Precinct	Refer to Clause 13.07-3L (St Kilda Live Music Precinct) and Clause 4 of this schedule for a plan of the declared SKLMP area.

2.0 Areas to which Clause 53.06 does not apply

04/05/2022
VC240 Proposed C220port

Name of area	Description
None specified	None specified

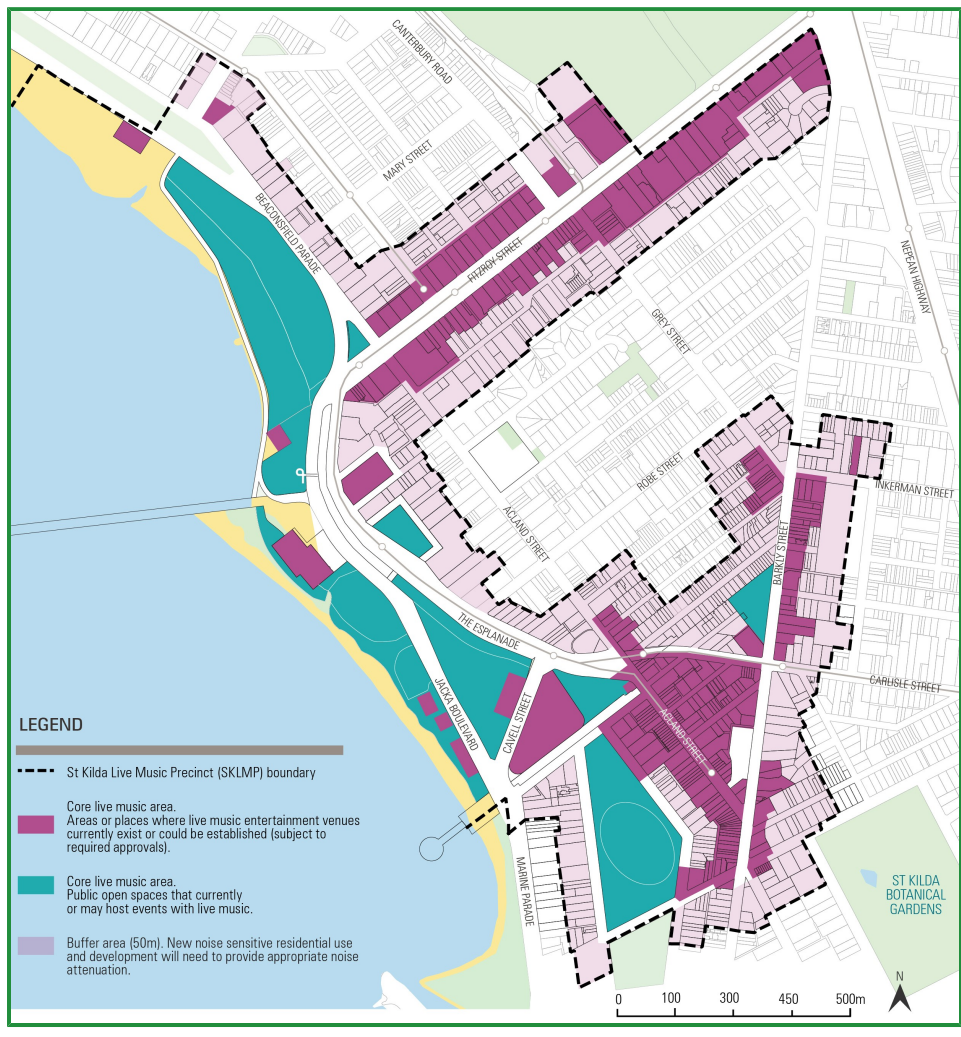
3.0 Other venues to which Clause 53.06 applies

04/05/2022
VC240 Proposed C220port

Name of venue	Address	Condition or limitation
None specified Theatreworks	14 Acland Street (cnr St Leonards Ave), St Kilda	None specified
Allan Eaton Studios	80 Inkerman Street, St Kilda	None specified
The Crest Hotel	47 Barkly Street, St Kilda	None specified
South Beach Reserve	Beaconsfield Parade, St Kilda	None specified
Catani Gardens	Beaconsfield Parade, St Kilda	None specified
Cleve Gardens	Beaconsfield Parade (cnr Fitzroy Street), St Kilda	None specified
Alfred Square	The Esplanade, St Kilda	None specified
St Kilda Triangle	Jacka Boulevard, St Kilda	None specified
O'Donnell Gardens	The Esplanade, St Kilda	None specified
Veg Out Community Gardens	Shakespeare Grove, St Kilda	None specified
Peanut Farm Reserve	Chaucer Street/ Spencer Street, St Kilda	None specified
J Talbot Reserve	Barkley Street, St Kilda	None specified
Linden New Arts	26 Acland Street, St Kilda	None specified
Christ Church/Community Centre	14 Acland Street, St Kilda	None specified
Sacred Heart Church	83 Grey Street, St Kilda	None specified

4.0 St Kilda Live Music Precinct Plan

PORT PHILLIP PLANNING SCHEME



Planning and Environment Act 1987

Port Phillip Planning Scheme

Amendment C220port

Explanatory Report

Overview

Amendment C220port (the amendment) proposes to introduce the St Kilda Live Music Precinct into the Port Phillip Planning Scheme by giving statutory effect to the findings of the *St Kilda Live Music Precinct Planning Study, Stage 2: detailed investigations & recommendations* (Hansen Partnership, 2024).

The proposed changes to the Port Phillip Planning Scheme are as follows:

- Amend the wording at Clause 02.02 (Vision) to include reference to 'live music'.
- Amend the wording at Clause 02.03-3 (Strategic Directions) to introduce strategic directions for the St Kilda Live Music Precinct.
- Amend the wording at Clause 11.03-1L (St Kilda Major Activity Centre) to introduce a new strategy to support and encourage new and existing live music entertainment venues within the St Kilda Live Music Precinct.
- Inserts new Clause 13.07-3L (St Kilda Live Music Precinct) to introduce new St Kilda Live Music Precinct local policy.
- Introduce a new schedule to Clause 53.06 (Live Music Venues) to nominate the *St Kilda Live Music Precinct* as an area where Clause 53.06 applies.

Where you may inspect this amendment

The amendment can be inspected free of charge at the City of Port Phillip website at [\[insert planning authority's website\]](#)

And

The amendment is available for public inspection, free of charge, during office hours at the following places:

Port Phillip City Council Municipal Offices:

- St Kilda Town Hall, Corner Carlisle Street and Brighton Road, St Kilda

Libraries:

- St Kilda Library, 150 Carlisle Street, St Kilda

The amendment can also be inspected free of charge at the Department of Transport and Planning website at <http://www.planning.vic.gov.au/public-inspection> or by contacting the office on 1800 789 386 to arrange a time to view the amendment documentation.

Submissions

Any person may make a submission to the planning authority about the amendment.

Submissions about the amendment must be received by **TBC**.

A submission must be sent to:

Head of City Strategy
City of Port Phillip
Private Bag 3
PO St Kilda VIC 3182

Or by email to: strategicplanning@portphillip.vic.gov.au

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been pre-set for this amendment:

- Directions hearing: **TBC**
- Panel hearing: **TBC**

Details of the amendment

Who is the planning authority?

This amendment has been prepared by the City of Port Phillip, who is the planning authority for this amendment.

Land affected by the amendment

The amendment applies to all land within the St Kilda Live Music Precinct boundary as shown in Figure 1.

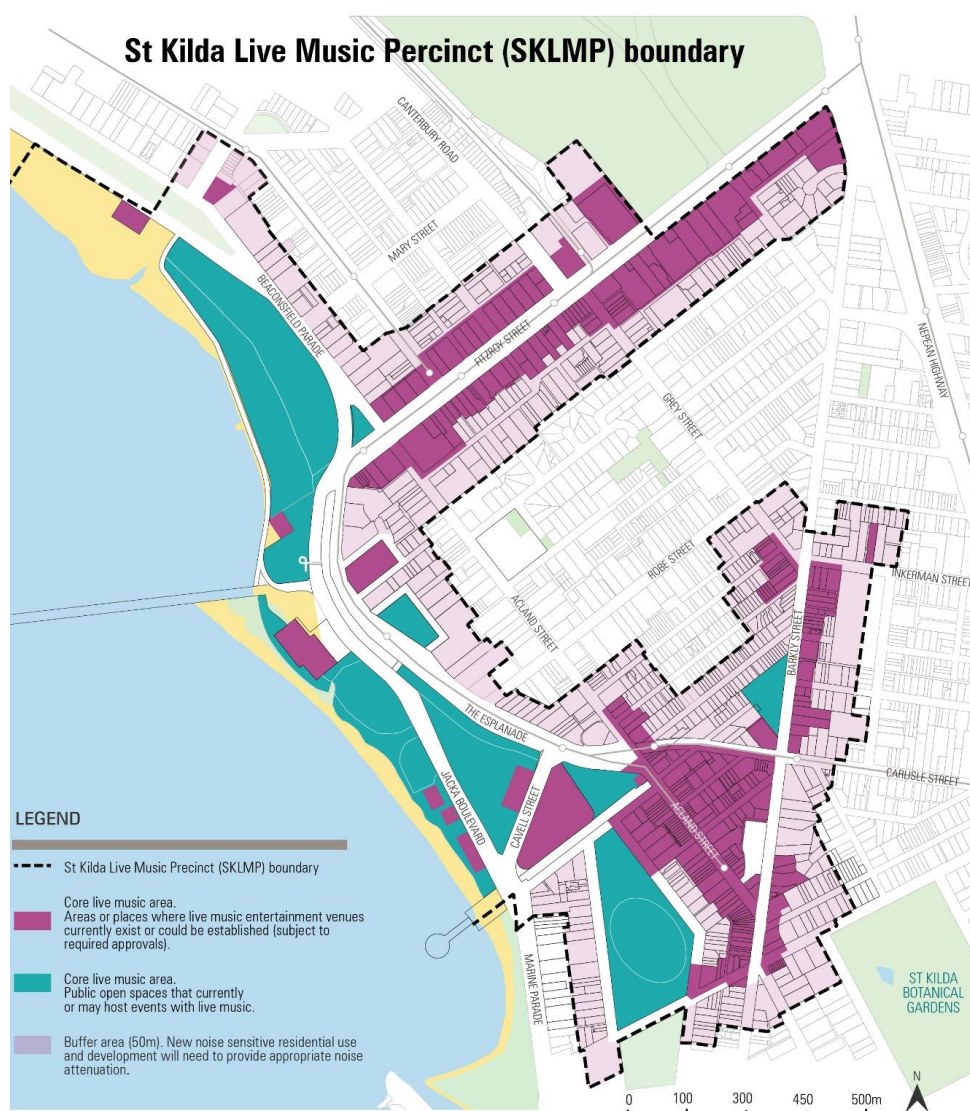


Figure 1 St Kilda Live Music Precinct

What the amendment does

The amendment proposes to give statutory effect to the findings of the *St Kilda Live Music Precinct Planning Study, Stage 2: detailed investigations & recommendations* (Hansen Partnership, 2024) (the Study). The amendment seeks to introduce the *St Kilda Live Music Precinct* into the Port Phillip Planning Scheme to establish a positive strategic policy foundation to support the retention, growth and operation of live music entertainment venues in St Kilda.

Specifically, Amendment proposes to make the following changes to the Port Phillip Planning Scheme:

Planning scheme ordinance

- Replace Clause 02.02 (Vision) with new Clause 02.02 which includes new reference to *live music*.
- Replace Clause 02.03 (Strategic Directions) with new Clause 02.03-3 (Environment risks and amenity) which inserts new strategic directions for the St Kilda Live Music Precinct.
- Replace Clause 11.03-1L (St Kilda Major Activity Centre) with new Clause 11.03-1L which amends the wording to introduce a new strategy to support and encourage new and existing live music entertainment venues within the St Kilda Live Music Precinct.
- Inserts additional wording to include reference to *live music* at Clause 11.03-1L-06 to support and encourage new and existing live music entertainment venues within the St Kilda Live Music Precinct.
- Inserts new Clause 13.07-3L (St Kilda Live Music Precinct) to introduce new St Kilda Live Music Precinct local policy.
- Replace the schedule to Clause 53.06 (Live Music Venues) with new schedule to the clause to nominate the *St Kilda Live Music Precinct* as an area where Clause 53.06 applies, as well as other existing live music entertainment venues near the Precinct, along with various public open spaces within the boundary.

Strategic assessment of the amendment

Why is the amendment required?

The amendment is required to implement the recommendations of the *St Kilda Live Music Precinct Planning Study, Stage 2: detailed investigations & recommendations* (Hansen Partnership, 2024) by updating the Port Phillip Planning Scheme.

It is considered that the amendment will establish a positive strategic policy foundation for the St Kilda Live Music Precinct and support the retention, growth, and operation of live music entertainment venues in St Kilda.

Implements Amendment VC183

Amendment VC183 was introduced in 2020, to recognise the significant contribution the live music industry makes to Victoria's social and cultural landscape. More specifically, the amendment made the following changes to the Victoria Planning Provisions (VPP):

- Introduced a new state planning policy Clause 13.07-3S (Live Music)
- Made changes to Clause 53.06 (Live Music Entertainment Venue)

The amendment (C220port) implements the objectives and strategies of the state planning policy Clause 13.07-3S by:

- Encouraging, creating, and protecting opportunities for the enjoyment of live music by implementing the St Kilda Live Music Precinct into the Port Phillip Planning Scheme
- Identifying St Kilda as where live music venues are encouraged or where there are high concentrations of licensed premises or clusters of live music venues.
- Implementing the 'agent-of-change' principle to ensure live music venues, nearby

residential and other noise sensitive land uses can co-exist.

Additionally, the amendment is supported by following City of Port Phillip strategies:

- *Spatial Economic and Employment Framework 2024* which includes an action to translate the St Kilda Live Music Precinct into local planning policy.
- *Live Music Action Plan 2021-2024*, which is a priority initiative sitting under the *Creative and Prosperous City Strategy 2023-26* and includes a key action to explore formally establishing a Live Music Precinct.

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

The amendment will implement the following objectives of planning in Victoria as set out in section 4(1) of the *Planning and Environment Act 1987*:

- a) *To provide for the fair, orderly, economic and sustainable use, and development of land*
- c) *To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.*
- d) *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.*
- f) *To facilitate development in accordance with the objectives of planning in Victoria.*

The amendment implements section 12(1)(a) of the *Planning and Environment Act 1987*.

By implementing the St Kilda Live Music Precinct into the Port Phillip Planning Scheme, the amendment will provide recognition for the important contribution live music makes to the State's culture and economy by encouraging the retention and development of new live music entertainment venues.

Additionally, the amendment will facilitate the development of new live music entertainment venues in the precinct while also mitigating any potential adverse off-site operational and amenity impacts on the local community.

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

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

The implementation of live music precincts is intended to have a positive social impact, given the correlation between attending music and social engagement.

Implementation of live music precinct will be positive economic impact by protecting and increasing live music opportunities with the City of Port Phillip, which will have a positive impact on the local economy.

Does the amendment address relevant bushfire risk?

The land affected by the amendment is not located within an area of identified bushfire risk.

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

The amendment is consistent with the *Ministerial Direction - The Form and Content of*

Planning Schemes under Section 7(5) of the *Planning and Environment Act 1987*.

The amendment has been prepared in accordance with the strategic considerations set out in *Ministerial Direction No. 11 Strategic Assessment of Amendment* made under Section 12 of the Act.

How does the amendment support or implement the Planning Policy Framework and any adopted State policy?

The amendment implements the objectives of Amendment VC183 by introducing new local planning policy at Clause 13.07-3L (St Kilda Live Music Precinct) to recognise the social, economic and cultural benefits of live music and support the retention, growth, and operation of live music entertainment venues in St Kilda.

The new schedule to Clause 53.06 (Live Music Entertainment Venues) assists to implement the new planning policy by nominating the St Kilda Live Music Precinct as an area where Clause 53.06 applies, as well as other existing live music entertainment venues near the Precinct, along with various public open spaces within the boundary.

How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The amendment inserts additional wording to reference *live music* at Clause 02.02 (Vision) to recognise and support the important role that live music plays in creating a city that is creative and prosperous with a dynamic economy.

In addition to the above change to the MPS, the amendment introduces new strategic directions for the St Kilda Live Music Precinct at Clause 02.03-3 (Environmental risks and amenity). The new strategic directions seek to facilitate live music entertainment venues within the St Kilda Live Music Precinct, whilst also seeking to ensure that noise-sensitive residential uses can co-exist with live music venues.

How does the amendment support or implement the Municipal Planning Strategy?

The changes to the MPS at Clause 02 are summarised in **Table A** below:

Table A: Summary of new MPS content

Clauses	Amendments
02.02 Vision	Introduces additional wording to include reference to <i>live music</i> at dot point 2.
02.03 Strategic Directions	Introduces new strategic directions for the St Kilda Live Music Precinct at Clause 02.03-3 (Environmental risks and amenity) to facilitate live music entertainment venues within the St Kilda Live Music Precinct, whilst also seeking to ensure that noise-sensitive residential uses can co-exist with live music venues.

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

The amendment proposes changes to local planning policies at Clause 11 and 13. The

proposed changes are summaries in **Table B** below:

Table B: Summary of new local planning content

Clauses		Amendments
11.03-1L-06	St Kilda Major Activity Centre	Inserts additional wording to include reference to <i>live music</i> at Clause 11.03-1L-06 to support and encourage new and existing live music entertainment venues within the St Kilda Live Music Precinct.
13.07-3L	Amenity, Human Health	Inserts new Clause 13.07-3L (St Kilda Live Music Precinct) to introduce new St Kilda Live Music Precinct local policy.

The amendment introduces a new particular provision at Clause 53.06 Live Music Venues. The proposed changes are summaries in **Table C** as follows:

Table C: Summary of updates to schedule to particular provisions

Clauses		Amendments
53.06	Live Music Venues	Replace the schedule to Clause 53.06 (Live Music Venues) with new schedule to the clause to nominate the St Kilda Live Music Precinct as an area where Clause 53.06 applies. The schedule also nominates (in section 3.0) other existing live music entertainment venues near the declared St Kilda Live Music Precinct, along with various public open spaces within the boundary.

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

The views of relevant agencies were considered in the preparation of strategic foundation documents used to underpin the amendment, including the Environmental Protection Agency (EPA), Department of Transport and Planning (DTP) and Department of Energy, Environment and Climate Action (DEECA).

The amendment aligns with *Council Plan 2021-31*, *City of Port Phillip Spatial Economic and Employment Framework 2024*, *Live Music Action Plan 2021-2024*, *The St Kilda Live Music Precinct Policy* (June 2023), *Events Strategy 2023-26*, *Creative and Prosperous City Strategy 2023-26* and *Library Action Plan 2021-26*, *St Kilda Strategic Plan 2021*.

All relevant agencies and stakeholders will be consulted during exhibition for the amendment.

Does the amendment address relevant requirements 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?

The amendment is not expected to impose any significant additional resource or administrative costs on the responsible authority.

The amendment does not add any additional planning permits triggers.

Planning and Environment Act 1987

Port Phillip Planning Scheme

Amendment C220port

Instruction sheet

The planning authority for this amendment is the [City of Port Phillip](#).

The Port Phillip Planning Scheme is amended as follows:

Planning Scheme Ordinance

The Planning Scheme Ordinance is amended as follows:

1. In **Purpose and Vision** – replace Clause [02.02](#) in the form of the attached document.
2. In **Purpose and Vision** – replace Clause [02.03](#) in the form of the attached document.
3. In **Local Planning Policy Framework** – replace Clause 11.03-1L with a new Clause 11.03-1L in the form of the attached document.
4. In **Local Planning Policy Framework** – insert new Clause 13.07-3L in the form of the attached document.
5. In **Particular Provisions** – replace the Schedule to Clause 53.06 with a new Schedule in the form of the attached document.

End of document

PORT PHILLIP PLANNING SCHEME

02.02

VISION

14/04/2023
G203port Proposed C220port

The vision in the *We are Port Phillip Council Plan 2017 – 2027* is for Port Phillip to be *‘Beautiful, Liveable, Caring, Inviting, Bold and Real’*.

The vision is shaped by a desire to celebrate history, protect character, and encourage inclusion and creativity, while planning for the future of a dynamic and evolving City.

Port Phillip will be a city:

- That produces low greenhouse gas emissions, is resilient to climate change and maximises use of environmentally sustainable modes of travel.
- That is creative and prosperous with a dynamic economy that connects and grows business as well as bringing arts, live music, culture and creative expression to everyday life.
- Of vibrant activity centres and employment areas, providing high accessibility to goods and services and prosperous conditions for all residents and businesses.
- That is liveable, with well-designed buildings that contribute to safe, lively, high amenity places with public spaces that are safe and inviting places for people to enjoy.
- Of diverse and distinctive neighbourhoods where well-designed new development is integrated with, and enhances our valued heritage and character and the beauty of our neighbourhoods.
- That respects and values its past, its diversity and its link with traditional owners.
- That is easy to get around, with 10-minute neighbourhoods that give locals access to shops, community spaces and a strong sense of place.
- With a range of affordable, accessible and diverse housing types to meet the needs of the population and is supported by a range of community facilities and services.
- That is inclusive; where community diversity and harmony are sustained and encouraged, and where members of our community feel connected through a strong sense of place and can participate in community life.
- With a healthy and safe environment for residents, workers and visitors.

PORT PHILLIP PLANNING SCHEME

02.03

14/04/2023
C203port

02.03-1

14/04/2023
C203port**STRATEGIC DIRECTIONS****Settlement****Activity centres**

Port Phillip has an established network of distinct and diverse activity centres:

- Four Major Activity Centres in Port Melbourne (Bay Street), South Melbourne (South Melbourne Central), Balaclava (Carlisle Street), and St Kilda (Fitzroy/Acland Streets). These provide a wide range of goods, community facilities and services, some serving regional catchments.
- Six Neighbourhood Activity Centres in Port Melbourne (Centre Avenue), Albert Park (Bridport Street/Victoria Avenue), Middle Park (Armstrong Street), Ripponlea (Glen Eira Road), and Elwood (Tennyson Street, and Ormond/Glen Huntly Roads). These provide a range of goods and services to the local catchment.
- Four Local Activity Centres in St Kilda (Inkerman/Grey Streets, and Inkerman Street), East St Kilda (Inkerman Street), Elwood (Brighton Road), and Port Melbourne (Graham Street). These provide a limited range of convenience goods and services to the local community.
- Emerging activity centres in Fishermans Bend Urban Renewal Area (FBURA) within the Montague, Sandridge and Wirraway precincts. These are of different scales and functions.

These activity centres perform a range of retail, commercial, entertainment and housing functions and will continue to provide community hub roles for their catchments. Their individual distinctiveness and diversity are an important part of Port Phillip's identity, which needs to be protected and reinforced.

Port Phillip's activity centres also play an important role in supporting and hosting visitation, including local and regional entertainment. Cultural tourism should continue to be provided for within activity centres and managed to minimise adverse effects on the amenity of the area.

Council supports:

- Reinforcing a diverse network of economically viable activity centres across Port Phillip by promoting development that:
 - Is of a scale appropriate to the role and capacity of the centre.
 - Supports the distinct identity and social and cultural role of each centre.
 - Provides a diverse mix of uses, including employment generating ones, that service the catchment of each centre.
 - Provides for residential development at a scale appropriate to the role, capacity and economic function of each centre.

Neighbourhoods**Albert Park / Middle Park**

Known for its Victorian and Edwardian era development, wide, tree-lined streets, beach and recreational facilities in Albert Park, this neighbourhood also includes part of St Kilda West. A -0.02 per cent population change is forecast by 2031.

Council supports:

- Maintaining the heritage character and low-rise scale of existing residential areas.
- Providing a range of passive and active recreational and sporting activities in attractive and accessible public spaces.

PORT PHILLIP PLANNING SCHEME

Balaclava / East St Kilda

This neighbourhood is primarily a residential area with diverse housing types and population. Key features include the Carlisle Street Major Activity Centre, Balaclava Station and Alma Park. A 4 per cent population growth is forecast by 2031.

Council supports:

- Reinforcing the generally mixed architectural character within the existing residential areas, featuring setbacks and garden characteristics.
- Retaining the eclectic, bohemian and distinctly local character of the Carlisle Street Activity Centre, its range of independent businesses, convenience and weekly shopping role, and civic and community focus.
- Facilitating increased use of Balaclava Station.
- Maximising access to safe and direct pedestrian routes, due to the high rates of walking and the specific cultural needs of the Jewish community.
- Addressing the shortage of public open space, especially between Hotham Street and Orrong Road.

Elwood / Ripponlea

This neighbourhood is known for its leafy streets and suburban character, proximity to the Port Phillip Bay, the Elwood Canal and Ripponlea Station. Significant development occurred during the post-war years, with new apartment developments in the area from 2001. A 1.7 per cent population growth is forecast by 2031.

Council supports:

- Reinforcing the green, suburban character of the existing residential areas.
- Retaining the character and prominence of Marine Parade and Ormond Esplanade as seaside boulevards.
- Improving amenity and safety along the interface of Elwood Canal and abutting land uses.
- Facilitating safe and direct walking routes, recognising the specific cultural needs of the significant Jewish community in Ripponlea.

Port Melbourne

This neighbourhood includes Station Pier and the Waterfront Place Precinct, foreshore and beaches, and the Bay Street Major Activity Centre. It is marked by traditional residential heritage precincts, contrasting with the distinctive areas of Garden City, Beacon Cove and contemporary apartment development in the Bay Street Major Activity Centre. A 1.3 per cent population growth is forecast by 2031.

Council supports:

- Retaining Station Pier as a trade and freight gateway.
- Developing Station Pier and the Waterfront Place Precinct as a world class passenger shipping gateway to Melbourne.
- Strengthening the Bay Street Activity Centre as the hub of Port Melbourne, and a mixed use, sustainable and diverse bayside centre that has a strong sense of identity and community.
- Maintaining the consistent neighbourhood character of Beacon Cove.
- Managing the foreshore interface (including Station Pier) to minimise conflicts.

PORT PHILLIP PLANNING SCHEME

South Melbourne

This neighbourhood includes the South Melbourne Major Activity Centre including Clarendon Street, the South Melbourne Market, and significant established business precincts which are experiencing residential and commercial development pressure. A 5.7 per cent population growth is forecast by 2031, along with an increase in workers.

Council supports:

- Developing a sustainable mixed use precinct focussed on the South Melbourne Major Activity Centre.
- Developing the Emerald Hill precinct as a major focus of cultural activity for the local and wider community.
- Maintaining high quality residential environments in established residential areas.
- Addressing the shortage of public open space, especially north of Park Street.

St Kilda Road

With a grand landscape setting that is flanked by the Shrine of Remembrance (in the City of Melbourne), St Kilda Road is one of Melbourne's most famous boulevards. The new Anzac Station will enhance access to the area, and catalyse residential and commercial development and public realm improvements.

The area has a diverse population and is a significant employment hub with a workforce of over 20,000. A 37 per cent population growth is forecast by 2031, along with significant growth in worker numbers.

Council supports:

- Maintaining the role of St Kilda Road as a preferred location for premier office accommodation and well-designed, higher density residential development.
- Reinforcing the St Kilda Road North Precinct as a dynamic, highly connected, beautiful, integrated, safe and inclusive place to live, work and visit.
- Protecting the significance and landmark quality of the Shrine of Remembrance.

St Kilda

This neighbourhood contains the iconic Acland Street and Fitzroy Street retail strips, significant open spaces, the St Kilda foreshore and other significant open spaces such as the St Kilda Botanical Gardens and the Peanut Farm.

St Kilda attracts millions of visitors each year with its famous attractions including Luna Park, the Palais Theatre and St Kilda Beach. The neighbourhood contains an eclectic mix of architectural styles, eras and building typologies. A 10 per cent population growth is forecast by 2031, predominately in the St Kilda Road South Precinct.

Council supports:

- Maintaining the sense of community and cultural diversity that contribute to the unique character of St Kilda.
- Revitalising the St Kilda Foreshore (including the development of the 'Triangle' site).
- Retaining the unique heritage, character and generally low-rise built form of the established residential areas.
- Improving the liveability of the St Kilda Road South Precinct and strengthening its sense of place as it transitions to increased residential densities.

PORT PHILLIP PLANNING SCHEME

Fishermans Bend Urban Renewal Area

The Fishermans Bend Urban Renewal Area (FBURA) is a declared project of State significance. It includes the major urban renewal precincts of Montague, Sandridge and Wirraway in the City of Port Phillip, and Lorimer and the Fishermans Bend NEIC (Employment Precinct) in the City of Melbourne.

The vision for FBURA is “*a thriving place that is a leading example for environmental sustainability, liveability, connectivity, diversity and innovation*” that will by 2050, accommodate 80,000 residents and 80,000 jobs and be Australia’s largest urban renewal *Green Star – Community*. FBURA is striving for a 6 Star *Green Star – Community* rating.

Council supports:

- Create thriving, lively, mixed-use neighbourhoods and a place of design excellence with highest densities of employment opportunities close to existing and planned public transport.
- Provide housing opportunities for a diverse community including at least six per cent of dwellings as Affordable Housing, with additional Social Housing dwellings provided as part of a Social Housing uplift scheme.
- Create a benchmark for sustainable and resilient urban transformation that supports the creation of a climate adept, water sensitive, low carbon, low waste community, addresses potential flood impacts with measures which maintain activity at ground level, and is designed to provide best practice waste and resource recovery management.
- Create a connected, permeable and accessible community that prioritises walking, cycling, and public transport use and supports 80 per cent of movements via active and public transport.

02.03-2

14/04/2023
C203port

Environmental and landscape values

Port Phillip is a highly modified urban environment with remnant areas of indigenous vegetation confined to the Port Phillip Bay foreshore and Ripponlea area. Replanting efforts have led to a number of significant sites of indigenous vegetation.

The foreshore is Port Phillip’s most outstanding natural and cultural asset and provides a number of functions including providing habitat for local flora and fauna and managing stormwater. Environmental management is essential in supporting the health of the Port Phillip Bay and ensuring that the foreshore remains an attractive destination that continues to support local biodiversity.

The City’s public open spaces and landscaping within road reserves, transport corridors and on private land provide an essential balance to Port Phillip’s urban environment and have a positive impact on the liveability and biodiversity of the City.

Council supports:

- Protecting Port Phillip’s natural environment and landscape values.
- Protecting and enhancing Port Phillip’s urban forest, including large canopy trees and vegetation.
- Protecting and enhancing Port Phillip’s green spaces and corridors to provide habitat to native flora and fauna.
- Reducing the environmental impact of urban areas on waterways and receiving bodies by managing stormwater quality and quantity.

02.03-3

14/04/2023
C203port Proposed C220port

Environmental risks and amenity**Climate change**

Port Phillip is subject to the impacts of climate change, including increased heat, more extreme weather events, changed rainfall patterns, greater flooding due to overland flow and sea level rise, and increased erosion of the foreshore.



PORT PHILLIP PLANNING SCHEME

Designing and managing built form and physical infrastructure to better respond to a changing climate will contribute to improving the liveability and sustainability of the City for the benefit of the community. Reduced emissions and achieving sustainable land use and development within the built environment will help achieve a City that is adaptive and resilient to climate change.

Council supports:

- Ensuring development responds to a changing climate and helps mitigate against its impacts by:
 - Incorporating environmentally sustainable design.
 - Prioritising walking, cycling and use of public transport, shared transport modes and low-emissions vehicles.
 - Providing new housing and employment in locations close to activity centres and public transport.
- Creating a greener, cooler City that reduces urban heat island effect by:
 - Increasing canopy cover and diversity of tree species in public open spaces, road reserves and transport corridors.
 - Protecting and enhancing vegetation on private land and in development.
- Use and development of the foreshore that responds to the impacts of climate change.
- Use of sustainable and low energy infrastructure and renewable energy.
- Integrating water sensitive urban design in development to improve water quality to Port Phillip Bay and other receiving water bodies, reduce the impacts of localised flooding and sea level rise and to facilitate water conservation.
- Reducing potable water consumption through more efficient water use and establishing alternative water sources.
- Facilitating the maximisation of recycling and diversion from landfill, reduction in waste generation and the circular economy.

St Kilda Live Music Precinct

St Kilda's live music scene emerged in the 1970's and has played an important role in defining and contributing to the local character and establishing St Kilda's live music legacy, which is acknowledged nationally and internationally.

The St Kilda Live Music Precinct is an area in the City recognised for its high concentration of live music entertainment venues. They provide important social, cultural, and economic benefits, contributing to making Port Phillip an attractive place in which to live, work and visit.

The Precinct's purpose is to encourage and support opportunities for live music entertainment venues within the designated core area. It also ensures the primary responsibility for noise attenuation rests with the agent of change, either new live music entertainment venues or new noise sensitive residential uses within the precinct.

Council supports:

- Facilitating the St Kilda Live Music Precinct through encouraging the development and land use of live music entertainment venues within the designated core area.
- Ensuring new development for noise sensitive residential uses within the St Kilda Live Music Precinct incorporates measures to mitigate potential noise.

PORT PHILLIP PLANNING SCHEME

02.03-4

14/04/2023
C203port**Built environment and heritage**

The Victorian Aboriginal Heritage Council have advised that they consider that the traditional owners of the land of Port Phillip are represented by the Bunurong Land Council Aboriginal Corporation (BLCAC) and Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation (WWCHAC). The traditional owners' continued connection to the land is reflected through intangible cultural heritage values and in sacred sites.

Port Phillip's built and natural heritage places are among the earliest and most significant in Melbourne, including buildings and structures, landscapes, streetscapes, precincts, subdivision patterns (comprising the layout of streets, lanes and boulevards) and cultural heritage.

Protecting, revealing and embracing the valued heritage and character of the City is a priority for Port Phillip.

The diversity of built form and valued elements of Port Phillip's urban structure and character make a valuable contribution to the attractiveness of the City as a place to live, work and visit.

A key challenge for Port Phillip is to enable development that responds to the context of the area, including its valued heritage and character, and that positively contributes to the public realm. A high quality, liveable and inclusive urban environment is critical to support the vitality and wellbeing of the City.

The character of areas planned for substantial growth will significantly change, being the FBURA urban renewal areas, parts of the Major Activity Centres and along St Kilda Road. Development in these areas needs to be managed to achieve a high-quality public realm to support the new higher-density mixed-use environment.

Development within Major Activity Centres needs to be managed to ensure that the unique and valued character of each centre is retained and enhanced.

The established residential areas and lower order activity centres are distinguished by their low-rise urban form and highly valued character. Development within and adjoining these areas needs to be managed to ensure that the existing neighbourhood character and amenity is not eroded.

Port Phillip also has a role in providing a setting for significant heritage buildings located in adjoining municipalities, including the Shrine of Remembrance.

Council supports:

- Protecting and enhancing the varied, distinctive and valued character of neighbourhoods across Port Phillip, and the physical elements therein.
- A new built form character within FBURA that transitions to surrounding established areas.
- Supporting development along the foreshore that enhances its significance as a natural, recreational and tourism asset by reinforcing the predominately low-rise scale of development (except where directed by a Design and Development Overlay) and avoids overshadowing the foreshore.
- Protecting Aboriginal cultural heritage and incorporating interpretive elements into built form and the public realm.
- Protecting and conserving valued heritage places and precincts by:
 - Retaining and conserving heritage places.
 - Development that respects and complements heritage places by using a contextual design approach that retains and enhances the significance of a heritage place.
 - Supporting adaptive reuse of heritage places that are no longer used for their original purpose, such as industrial buildings.
- Balancing sustainability outcomes and heritage conservation.

PORT PHILLIP PLANNING SCHEME

02.03-5

14/04/2023
C203port

Housing

Managing the impact of housing growth on the City's character and urban form is a key challenge for Port Phillip. Well-located strategic redevelopment sites and precincts provide the key opportunity to accommodate a large proportion of Port Phillip's new housing growth which will continue to bring change to the scale and density of those areas. Moderate residential growth may also be achieved in activity centres as part of shop-top housing or as larger mixed-use developments on strategic sites. Meeting the demand for new housing within Port Phillip's established residential areas, including around activity centres, must be carefully managed to protect the heritage value, neighbourhood character and amenity of those areas.

As a part of housing growth, provision must be made for a variety of dwellings to meet the diverse needs of Port Phillip's community and ensuring that in terms of household size, lifestyles, abilities, income levels and lifecycle stages. This includes households of varying sizes including shared, sole person, couple and family (including larger family) households. As well as ensuring accessible, visitable and adaptable housing for persons with disability or changing household life-cycle needs including the need to work from home, and older persons needing to age in place or have access to retirement housing and residential care accommodation.

With increasing land values and housing costs and the closure of private rooming houses and subdivision of rental flats, home ownership and private renting are increasingly unaffordable. Greater supply of affordable and social housing is needed to address priority local housing need, including for the most disadvantaged and marginalised residents.

Council supports:

- Providing significant opportunities for housing growth within designated strategic locations such as FBURA, that offer greatest accessibility to shops, services and public transport.
- Increasing residential densities within existing activity centres where the intensity and scale are appropriate to their scale, character and heritage values and does not detract from the centres' economic capacity.
- Providing affordable housing for very low, low and moderate-income households in locations across the municipality, including strategic redevelopment sites, activity centres and Fishermans Bend.
- Providing a diverse range of affordable housing types, such as supported social housing, social (public and community) housing, and private affordable housing that address local housing need.
- Providing a diverse range of accessible, visitable and adaptable housing that meet the needs of the community.

02.03-6

14/04/2023
C203port

Economic development

Port Phillip is strategically positioned between the Central City and Port Phillip Bay and has a strong and mixed economy with significant areas suitable for industrial and varied employment uses and a strong tourism industry.

Key employment areas are shown on the Strategic Framework Plan at Clause 02.04-1 and include:

- Activity Centres that are largely based on retail strips with new centres planned to be established in FBURA.

PORT PHILLIP PLANNING SCHEME

- Office and Mixed-Use Areas located within and outside of activity centres, including the St Kilda Road Corridor (identified within the expanded Central City Area), South Melbourne Business Precincts and FBURA.
- Industrial Areas located in Port Melbourne, South Melbourne and Balaclava provide for existing and emerging industrial activities. FBURA has historically accommodated significant industrial activity within the City. Strategically important existing industrial uses that provide services to the construction industry will continue to operate as the area transitions to a mixed-use precinct.

Port Phillip will need to retain an adequate supply of employment land in key precincts for growing job sectors, particularly office space for the ‘knowledge economy’ which is experiencing increased pressure for new residential development, and to strengthen existing creative industry clusters.

Port Phillip has a strong tourism industry, with Port Melbourne’s waterfront and St Kilda’s foreshore as key tourist attractors. The range of entertainment uses, facilities and festivals provided across key precincts are an important part of the local economy and contribute to the municipality’s strong cultural identity. A key challenge is in balancing the social, economic and cultural benefits of tourism and entertainment uses (particularly live music venues, licensed premises and gaming venues) with minimising social harm and protecting residential amenity to ensure that Port Phillip continues to be a desirable place to visit and to live.

Port Phillip has a vibrant arts scene, and it is important that arts and cultural activities are supported. A key challenge in Port Phillip is retaining affordable and flexible creative workspaces.

Council supports:

- Planning for adequate employment land across the City to facilitate local employment and support the diversity of resident, business and visitor needs.
- Maintaining and strengthening the economic role of Port Phillip’s commercial and, mixed use and industrial areas by:
 - Facilitating the transition of FBURA from an industrial to mixed-use area.
 - Supporting opportunities for high-intensity commercial uses within the Sandridge Precinct, and ancillary commercial and retail uses in the other precincts in FBURA.
 - Supporting urban manufacturing through industrial uses with limited amenity impacts.
 - Maintaining the role of St Kilda Road as the City’s premier commercial strip.
 - Maintaining and strengthening creative industry clusters in South Melbourne and FBURA.
- Supporting an environment in which arts and creative industries can flourish.
- Supporting a local tourism industry and entertainment precincts that respect safety, amenity and the natural environment.
- Designing and locating sensitive land uses (such as residential uses) to minimise the potential conflict with existing and future employment uses.
- Managing the interfaces between industrial and residential areas (including the interface between Garden City, FBURA and the Port of Melbourne) to limit amenity impacts while ensuring ongoing viability and efficiency of industrial uses.

02.03-7
14/04/2023
C203port

Transport

Port Phillip is built on a walking scale with shopping, parks and local facilities within walking distances of most residential properties.

PORT PHILLIP PLANNING SCHEME

The City's well-established public transport network adequately serves the needs of most residents, however, there are some parts of the municipality where convenient access to public transport is limited. Providing more transport choices and managing parking is a key focus for Port Phillip as its population grows.

Road network congestion continues to be an issue with high rates of private vehicle ownership and car dependency placing pressure on the City's road infrastructure, creating high parking demand and congested road space.

To reduce car-based travel, walking, bicycle riding and public transport use should be promoted as the preferred modes of transport. Widespread use of more sustainable modes of transport will support the health and wellbeing of Port Phillip's community and provide environmental benefits.

Council supports:

- Creating 10-minute walkable neighbourhoods by integrating land use and transport planning to direct housing and employment growth close to high quality pedestrian routes and public transport services.
- Prioritising and facilitating sustainable transport modes, including active transport and public transport, over private vehicle use.
- Facilitating an integrated, safe and accessible walking and bicycle network that encourages more people to walk or cycle more often.
- Alternative transport options and technology that makes it more convenient for the community to move around.

02.03-8

14/04/2023
C203port

Infrastructure

Key challenges facing the City are meeting the physical and community infrastructure needs of a growing and changing community across established and urban renewal areas, including the impacts of substantial growth in FBURA.

Council supports:

- Facilitating sustainable physical and community infrastructure that will support the needs of the existing and future community and respond to the demands of development.
- Strengthening the network of community facility 'clusters' by locating community facilities together or close to each other and within activity centres.

02.03-9

14/04/2023
C203port

Open space

There are a range of open space areas in Port Phillip, including parks, gardens, beach and Port Phillip Bay foreshore. Many of Port Phillip's parks and gardens are of heritage significance, particularly those with formal landscapes such as St Kilda Botanical Gardens and St Vincent Gardens in South Melbourne.

The foreshore and Albert Park reserve are significant public open space assets and host a wide range of entertainment, sport and recreational activities. This influences the infrastructure needs of these areas and can impact public access and use.

The demand for existing open space in Port Phillip from residents, visitors and workers is increasing as the population grows and the provision of private open space declines.

Council supports:

- Establishing and improving open space linkages to connect public open space throughout Port Phillip and to the wider regional open space network.
- Pursuing opportunities to increase the amount of useable open space particularly in neighbourhoods identified as being deficient of open space.

PORT PHILLIP PLANNING SCHEME

- Ensuring the heritage significance of parks and gardens is protected and balanced with their role as places for leisure.
- Ensuring open spaces are safe, inclusive and accessible to all users.
- Maintaining the foreshore as an important social and recreational destination without diminishing its environmental conservation.
- Ensuring development on or adjacent to the foreshore is sympathetic to the surrounding coastal landscape and does not diminish its environmental, amenity, social or recreational values.
- Ensuring development does not detrimentally impact on the amenity, landscape and environmental values of public open space.

PORT PHILLIP PLANNING SCHEME

11.03
31/07/2018
VC148

PLANNING FOR PLACES

PORT PHILLIP PLANNING SCHEME

11.03-1S

03/02/2022
VC199

Activity centres

Objective

To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.

Strategies

Build up activity centres as a focus for high-quality development, activity and living by developing a network of activity centres that:

- Comprises a range of centres that differ in size and function.
- Is a focus for business, shopping, working, leisure and community facilities.
- Provides different types of housing, including forms of higher density housing.
- Is connected by transport.
- Maximises choices in services, employment and social interaction.

Support the role and function of each centre in the context of its classification, the policies for housing intensification, and development of the public transport network.

Undertake strategic planning for the use and development of land in and around activity centres.

Give clear direction on preferred locations for investment.

Encourage a diversity of housing types at higher densities in and around activity centres.

Reduce the number of private motorised trips by concentrating activities that generate high numbers of (non-freight) trips in highly accessible activity centres.

Improve access by walking, cycling and public transport to services and facilities.

Support the continued growth and diversification of activity centres to give communities access to a wide range of goods and services, provide local employment and support local economies.

Encourage economic activity and business synergies.

Improve the social, economic and environmental performance and amenity of activity centres.

Policy documents

Consider as relevant:

- *Urban Design Guidelines for Victoria* (Department of Environment, Land, Water and Planning, 2017)
- *Apartment Design Guidelines for Victoria* (Department of Environment, Land, Water and Planning, 2021)
- *Precinct Structure Planning Guidelines* (Victorian Planning Authority, 2021)

PORT PHILLIP PLANNING SCHEME

11.03-1R

31/07/2018
VC148

Activity centres - Metropolitan Melbourne

Strategies

Support the development and growth of Metropolitan Activity Centres by ensuring they:

- Are able to accommodate significant growth for a broad range of land uses.
- Are supported with appropriate infrastructure.
- Are hubs for public transport services.
- Offer good connectivity for a regional catchment.
- Provide high levels of amenity.

Locate significant new education, justice, community, administrative and health facilities that attract users from large geographic areas in or on the edge of Metropolitan Activity Centres or Major Activity Centres with good public transport.

Locate new small scale education, health and community facilities that meet local needs in or around Neighbourhood Activity Centres.

Ensure Neighbourhood Activity Centres are located within convenient walking distance in the design of new subdivisions.

PORT PHILLIP PLANNING SCHEME

11.03-1L-01 Activity centres

07/08/2023
C213port

Objective

To maintain and strengthen a network of distinct, diverse, and viable activity centres that facilitate appropriate housing and economic growth.

Strategies

Ensure land use supports the strategic role and function of the activity centre.

Support land uses that contribute to the provision of goods and services for the local community in Major Activity Centres and Neighbourhood Activity Centres.

Intensify retail development within existing retail strips (Commercial 1 Zone), subject to heritage and character considerations.

Support commercial land uses beyond retail strips (Commercial 1 Zone) provided the use would:

- Improve the integration of the activity centre with the surrounding area.
- Respond to known retail gaps or shortfalls.
- Provide for additional or improved public space.

Support development within activity centres that positively contributes to the built form character of the centre whilst conserving heritage buildings, and streetscapes, and the distinctive and valued character of the traditional retail strips.

Encourage greater consistency in land use and built form intensity at the interface of activity centres and surrounding residential areas, including a transition in building scale to adjoining low-rise development.

Create continuous active frontages within core retail areas of Major Activity Centres and Neighbourhood Activity Centres with non-core retail uses located above or behind ground floor frontages.

Support residential development within Major Activity Centres and on key sites and precincts, as defined by Structure Plans.

Ensure residential development within activity centres does not diminish future opportunities for retail expansion, particularly within core retail areas.

Encourage retail development (including reformatting of retail space) that integrates with the established retail strip in response to a demonstrated increase in consumer demand.

Ensure that the heritage scale and form of buildings in the Bridport Street / Victoria Avenue, Albert Park; Armstrong Street, Middle Park; and Glen Eira Road, Ripponlea Neighbourhood Activity Centres, is respected.

Encourage residential use and development above or behind ground floor premises in Major Activity Centres and the Ormond Road / Glen Huntly Road Neighbourhood Activity Centre.

Limit residential development in the Neighbourhood Activity Centres of Tennyson Street, Elwood and Centre Avenue, Port Melbourne, being locations that do not offer direct access to the Principal Public Transport Network.

Policy guideline

Consider as relevant:

- Supporting new retail floor space exceeding 2000 square metres (Gross Leasable Floor Area) where there would be no adverse economic impacts.

Objective

To support in-centre cultural tourism that reflects each individual centre whilst minimising adverse amenity impacts.

PORT PHILLIP PLANNING SCHEME

Strategies

Direct larger scale regional entertainment uses to the Bay Street Major Activity Centre, Port Melbourne and the St Kilda Major Activity Centre.

Support smaller scale local entertainment uses in Major Activity Centres and Neighbourhood Activity Centres provided there are no adverse impacts on residential amenity.

Allow bar uses in association with existing ground floor restaurants and cafes.

Support entertainment uses located outside designated activity centres, provided:

- There are no adverse amenity impacts on adjoining properties, including noise, hours of operation, traffic and car parking.
- There is convenient access to public transport or other transport means (for example taxi ranks).

Policy documents

Consider as relevant:

- *Bay Street Activity Centre Structure Plan Parts 1 and 2* (City of Port Phillip, May 2014)
- *Carlisle Street Activity Centre Structure Plan* (City of Port Phillip, 2009)
- *Carlisle Street Activity Centre Urban Design Framework* (City of Port Phillip, 2009)
- *City of Port Phillip Activity Centres Strategy* (City of Port Phillip, 2006)
- *City of Port Phillip Activity Centres Strategy Implementation Plan* (City of Port Phillip, 2007)
- *Ormond Road Urban Design Guidelines* (City of Port Phillip, 2007)
- *South Melbourne Central Structure Plan* (City of Port Phillip, August 2007)

11.03-1L-02 Bay Street Major Activity Centre

14/04/2023
C203port

Policy application

This applies to the Bay Street Major Activity Centre, and environs, as shown on the map to this clause.

General

Objective

To ensure the continued development of the Bay Street Major Activity Centre as a multi-functional and sustainable bayside activity centre, a local civic and community hub with a strong sense of identity and community, and a wide range of goods and services, for locals and visitors.

Strategies

Reinforce the distinct and contrasting urban character of the different precincts of the Bay Street Major Activity Centre as shown on the map to this clause.

Encourage complementary land use clusters around key anchors including:

- The foreshore (for visitation).
- The supermarket (for grocery needs).
- The Library and Town Hall (for complementary retail, business and personal services).

Encourage use and development that leverage off the Port Melbourne waterfront as a visitor destination, particularly hospitality uses that support visitation to the activity centre, including after hours and at weekends.

Create a cultural, tourism, leisure and retail gateway and pedestrian environment in the Bay Street Southern Gateway (Precinct 4 on the map to this clause).

PORT PHILLIP PLANNING SCHEME

Support the provision of school facilities for primary and secondary school aged children and early childhood education and child-care services.

Support the redevelopment or reuse of larger sites south of Bridge Street that include retail anchors at ground level.

Facilitate the renewal of under-utilised sites and precincts across the centre including the desired future outcomes for the key strategic sites listed in Table 1 and shown on the map to this clause.

Table 1 – Strategic renewal sites

Key strategic site		Desired future outcome
A	Corner Bay Street and Liardet Street (Coles supermarket)	<ul style="list-style-type: none"> Residential, community and / or commercial uses above the existing retail anchor at ground level. Existing car parking is to be retained with additional car parking for any new land use.
B	7-33 Bay Street (Mitchell Crescent Public Housing Estate)	<ul style="list-style-type: none"> Redevelopment should include social housing on upper levels and to the rear of the site, with no net loss of social housing. Potential for a future retail anchor with active land uses along the Bay Street frontage.
C	160 and 162 Bay Street (church and manse)	<ul style="list-style-type: none"> Office or residential uses to the rear of the existing place of worship and manse.
D	420 Bay Street (service station site)	<ul style="list-style-type: none"> Residential development (dwellings).
E	86 Crockford Street (service station site)	<ul style="list-style-type: none"> Residential development (dwellings) and office based commercial activity.

Housing

Objective

To concentrate new housing growth opportunities in identified strategic precincts within the activity centre.

Strategies

Concentrate housing growth (with some at higher densities) in the following listed areas:

- The mixed use area (south of Graham Street).
- Land on the north-western side of Crockford Street.
- The under-utilised residential sites on the south-eastern side of Crockford Street and Bay Street, north of Spring Street.

Facilitate remaining opportunities for housing growth within the activity centre that responds to the heritage, low-rise character and amenity of the surrounding established residential areas.

Support development designed to either:

PORT PHILLIP PLANNING SCHEME

- Protect and reinforce the existing character in areas with an identified highly consistent neighbourhood character.
- Respond to the preferred neighbourhood character in areas identified as having a mixed character.

Facilitate a new contemporary higher-rise character in the mixed use area south of Graham Street while respecting remaining significant heritage places.

Protect residential amenity and character at the interface between the mixed use 'growth' area and established 'sensitive' residential areas south of Graham Street (generally between Dow Street and Stokes Street) through a transition down in building scale as indicated on the *Built Form Framework Plan* in the *Bay Street Activity Centre Structure Plan* (City of Port Phillip, 2014).

Encourage medium scale infill residential development on the southern side of Crockford Street.

Policy guideline

Consider as relevant:

- Designing development in residential areas to respond to neighbourhood character as identified in the *Bay Street Activity Centre Structure Plan* (City of Port Phillip, 2014) and the neighbourhood character statements for the Bay Street Major Activity Environs in the *Port Phillip Design Manual* (City of Port Phillip, 2000).

Urban structure and built form

Objective

To reinforce the identity of Bay Street including its 'village' feel, urban structure and unique built form elements.

Strategies

Reinforce the low scale, heritage character of the traditional retail strip north of Graham Street.

Encourage street wall heights consistent with the prevailing streetscape context.

Maintain public view lines as identified on the *Built Form Framework Plan* in the *Bay Street Activity Centre Structure Plan* (City of Port Phillip, 2014), by limiting the height of development fronting Bay, Heath and Lalor Streets.

Create well articulated development (through variations in form and materials, openings and the inclusion of vertical design elements) on larger or consolidated sites (with a frontage over 10 metres).

Encourage development along Bay Street, north of Graham Street, to respect the scale of heritage buildings and continue the consistent street wall parapet height.

Design buildings to limit overshadowing and preserve core hours of sunlight access to public paths and foreshore areas.

Policy guideline

Consider as relevant:

- Designing development so that it avoids diminishing sunlight access on 21 June (winter solstice) to:
 - The eastern footpath of Bay Street – between 10.00am and 3.00pm.
 - The south-western side of Rouse Street – between 11.00am and 2.00pm.
 - The foreshore area including bicycle and pedestrian paths.

PORT PHILLIP PLANNING SCHEME

Sustainable transport

Objective

To facilitate an integrated and sustainable transport network that supports Bay Street's primary role as a shopping street.

Strategies

Enhance Bay Street and Beach Street as the primary spines of pedestrian activity.

Support improved walking and cycling links within Port Melbourne, particularly between Station Pier, Bay Street and the foreshore.

Reduce the impact of traffic along Bay Street to support a primary shopping street and pedestrian priority area.

Public realm

Objective

To strengthen the identity, connectivity and cohesion of the activity centre through enhancements to the public realm.

Strategies

Reinforce the spatial definition, safety, convenience, and pedestrian accessibility and activation of streets, lanes and public spaces within the activity centre through development that:

- Provides cantilevered verandas over footpaths along the length of Bay Street and along 30 metre wide streets in the mixed use area.
- Creates a sense of street enclosure.
- Creates well-articulated, attractive and detailed facades on all visible elevations, including exposed boundary walls.
- Limits posted verandahs or other fixed structures at ground level unless strongly respectful of heritage conservation objectives.
- Minimises vehicle crossovers along Bay Street or Beach Street and along 'priority pedestrian' routes as identified on the *Pedestrian Network Framework Plan* in the *Bay Street Activity Centre Structure Plan* (City of Port Phillip, 2014).
- Encourages the provision and extension of canopies to offer weather protection and preserve footpath space for pedestrians throughout the retail core.
- Ensures that the floor levels of commercial premises development along Bay Street are level with the street.

Activate existing laneways through active land use edges and use the footpaths for street trading activities in main streets south of Graham Street.

Provide 'Active Retail Edges':

- Through the design of ground level premises:
 - Along both sides of Bay Street south of Bridge Street.
 - On the north-western side of Bay Street between Bridge and Raglan Streets.
- In locations identified on the *Pedestrian Network Framework Plan* in the *Bay Street Activity Centre Structure Plan* (City of Port Phillip, 2014) including:
 - At the north-west corner of Bay Street and Pool Street.

PORT PHILLIP PLANNING SCHEME

- At the corners of Bay Street and Beach Street.
- Along both sides of Bay Street between Beach Street and Rouse Street.

Enable visual connections between building occupants and persons in the public realm through the creation of other 'Active Edges' along all other identified priority pedestrian spines or streets.

Crockford Street Precinct (DDO25)

Objective

To facilitate the renewal of the Crockford Street precinct with commercial and residential land use.

Strategies

Ensure new use provides a sensitive interface, which is of a scale and nature that will not significantly impact the amenity of adjacent residential areas including development stepped down to the adjoining low scale residential context.

Support a vertical mix of uses to achieve active commercial frontages at ground level through office-based commercial activity with and residential uses at upper levels.

Lalor and Heath Street Precinct

Objective

To create 'infill' residential development along the eastern side of Heath and Lalor Streets (Precinct 2 on the map to this clause).

Strategies

Maintain the residential character and amenity of Heath Street and limit commercial encroachment.

Support development that reinstates a residential edge in Heath, Lalor and Garton Streets with development at the rear of properties on Bay Street creating improved interfaces with existing residential properties.

Avoid commercial or industrial use development forms that may detrimentally impact the amenity of established residential areas.

Ensure that development on the Bay Street retail strip:

- Maintains the visual integrity of the street wall parapet along Bay Street.
- Is recessed from the Bay Street frontage so that it is not visible from the opposite side (property line) of Bay Street.
- Achieves a transition down in height to the established residential area opposite.

Reflect the fine grain building character of the precinct through vertical design elements in development.

Limit vehicle access and parking entrances in ground floor level façades.

Policy guidelines

Consider as relevant:

- Maintaining a 7 metre (equivalent to a two storey street wall) street-wall parapet to Heath and Lalor Streets.
- Maintaining a maximum overall building height of 14 metres (four storey four storey equivalent).
- Setting back upper levels from the Heath / Lalor Street front property boundary as follows:

PORT PHILLIP PLANNING SCHEME

- Any third level by a minimum of 3 metres.
- Any fourth level so that it is not visible from the opposite side of Heath / Lalor Streets, or from Bay Street when viewed from the opposite side of the street at standing eye level (1.6 metres).
- A building form for development on corner sites with a principal frontage to Bridge, Spring, or Raglan streets that is:
 - Setback behind the principal frontage so it is not visible when viewed from the opposite street frontage at standing eye level (1.6 metres) above the footpath level.
 - A maximum overall height of two storeys / 7 metres.
 - Designed to address all street frontages.

Town Hall Business Precinct

Objective

To support use and development of a broad range of commercial uses that respect existing environs in the Town Hall Business Precinct (Precinct 3 on the map to this clause).

Strategies

Support office-based business and residential uses north of Bridge Street.

Create a business services node along Bay Street, between Bridge Street and Raglan Street.

Encourage street level and upper level residential and office uses in existing residential properties between Bridge Street and Spring Street East.

Encourage development of Bay Street, north of Spring Street East, to act as a transitional precinct providing for a mix of office and residential uses.

Ensure development on sites outside the Heritage Overlay:

- Respects the scale of heritage properties opposite and further south along Bay Street.
- Achieves a transition in scale to a site located directly adjacent to a heritage place and to the established residential area to the rear.
- Creates a strong built form connection across underutilised sites.

Ensure that development to the rear of the Bay Street retail strip:

- Maintains the visual integrity of the street wall parapet along Bay Street.
- Achieves a transition down in height to the established residential area opposite.

Policy guidelines

Consider as relevant:

- A street wall height of 2 storeys in Bay Street and 3 storeys in Lyons Street, with a maximum overall height of 4 storeys.
- An 8 metre minimum parapet height with a 9.5 metre maximum street wall height along Bay Street.
- Limiting development at the rear of 'significant' and 'contributory' heritage places that is visible within a view line taken from the opposite side of Bay Street (at 1.6 metres from street level).
- Designing development on sites outside the Heritage Overlay to have a height no more than one storey above the prevailing heritage streetscape of Bay Street.

PORT PHILLIP PLANNING SCHEME

Policy documents

Consider as relevant:

- *Bay Street Activity Centre Structure Plan - Parts 1 and 2* (City of Port Phillip, May 2014)
- *Port Phillip Design Manual – Chapter 8: Neighbourhood Character Statements – Bay Street Activity Centre Environs* (City of Port Phillip, 2000)
- *Sustainable Transport Policy and Parking Rates Report* (Ratio, March 2007)

PORT PHILLIP PLANNING SCHEME

Bay Street Major Activity Centre study area plan



PORT PHILLIP PLANNING SCHEME

11.03-1L-03 Carlisle Street Major Activity Centre

14/04/2023
C203port

Policy application

This policy applies to all land in the Carlisle Street Major Activity Centre area, and environs, as shown on the map to this clause.

General

Objective

To enhance the Carlisle Street Major Activity Centre as a focus for the local community, with a diverse mix of retail, commercial, civic and community services (west of Chapel Street) and leisure and living opportunities.

Strategies

Encourage significant new residential and mixed use development at increased densities within the activity centre to meet growth objectives, whilst ensuring that the heritage and neighbourhood character of established residential areas is retained.

Facilitate significant land use change and development on identified strategic sites and precincts in the Carlisle Street Activity Centre Structure Plan.

Discourage the under-development of strategic sites and precincts within the activity centre that are identified for substantial change.

Reinforce Carlisle Street Activity Centre's primary convenience retailing (daily and weekly goods and services), and personal and business services roles, and eclectic, bohemian and distinctly local character.

Facilitate the centre to retain its metropolitan role in the provision of specialist continental and kosher goods.

Increase night-time presence within the centre through a mix of activities, including residential, that contributes to the ongoing passive surveillance of streets and public spaces.

Ensure entertainment uses and restaurants and bars are of a smaller scale and limited concentration to provide for local needs whilst discouraging the centre's development as a regional entertainment destination.

Encourage uses that reinforce the civic and community services role of the centre, particularly west of Chapel Street.

Support and retain a range of community services and spaces (including smaller scale cafes and restaurants outside the retail core) that meet local community needs, including higher needs groups.

Ensure community spaces are provided within larger-scale mixed use developments.

Ensure development on sites included in a Heritage Overlay maintains the two storey scale along Carlisle Street, with recessed upper level development.

Incorporate culturally relevant public art in new development that contributes to place making in the activity centre.

Design development to respect the following elements:

- The predominant two storey heritage streetscape, human scale, and fine grain streetscape pattern of Carlisle Street.
- The zero frontage setbacks of buildings.
- The civic precinct west of Chapel Street, characterised by public buildings in a landscape setting including the Town Hall, library and state school.
- The established network of streets and laneways, to improve legibility, permeability and connections between activities.

PORT PHILLIP PLANNING SCHEME

Provide for incremental change, including well-designed medium density development, in remaining areas outside of the heritage overlay, surrounding the activity centre.

Facilitate land use change and new development within Alfred and Marlborough Streets that improves the interface of the activity centre with adjacent residential areas.

Ensure a pedestrian focussed public realm through the design of streets and adjoining development, and management of car parking.

Reinforce and support the role of the activity centre as a sustainable transport hub focused on Balaclava Station, with increased usage, improved integration with other sustainable transport modes (including trams) and as part of a safe, convenient and connected pedestrian environment.

Policy guidelines

Consider as relevant:

- Consolidating sites and supporting three storey residential development in Alfred Street, Nelson Street (eastern side) and Camden Street (south of Edward Street) to improve the interface with the activity centre.
- Encouraging the progressive development of large 'at grade' car parks (through their underground relocation) as key opportunities to consolidate growth within the activity centre.
- Designing development to be self-sufficient in on-site car parking and providing on-site car parking based on the 'empirical rate' specified below.

Use	Empirical rate
Supermarket	4 spaces per 100m ² net floor area
Restaurant	0.3 per seat
Office	3.5 spaces per 100m ² net floor area (unshared)
	3.0 spaces per 100m ² net floor area (shared)

- A reduction (or waiver) of car parking from the empirical rate, where conditions that would result in a lower demand for car parking can be demonstrated.
- Encouraging at least 10 per cent of new dwellings within the activity centre to be affordable (private and community) housing.

Precinct strategies**Precinct 1 - Carlisle Street Retail Precinct (DDO21)**

Consolidate a legible, compact and walkable retail core between Chapel Street and the Rail Bridge.

Concentrate retail activity within the retail core through the retention and integrated renewal of the existing supermarket sites and adjacent at grade car parks.

Ensure larger-scale retail premises maintain and reinstate the fine grain retail frontages along Carlisle, Nelson and Camden Streets.

Ensure new use and development contributes to continuous retail activity at street level, with new retail floor space to enhance and integrate with the existing retail strip, and residential and/or commercial uses located above or behind retail premises.

Precinct 2 - St Kilda Road Commercial Precinct (DDO21)

Support commercial (office) as the primary use.

Encourage land uses that benefit from main road exposure.

Discourage shop uses, except restricted retail premises, unless the activity is secondary to another commercial use on the site.

PORT PHILLIP PLANNING SCHEME

Encourage a continuous active commercial edge along the St Kilda Road frontage.

Discourage bar, restaurant and nightclub uses that do not provide daytime activity from occupying street level premises where these may adversely impact on residential uses.

Precinct 3 - Civic and Community Precinct

Encourage ongoing community support services at the St Kilda Parish Mission site (corner Carlisle Street and Chapel Street).

Develop the St Kilda Library as a key cultural hub and learning centre.

Support the development of a contemporary 'Family and Children's Services Hub' at 171 Chapel Street.

Precinct 4 - William Street Industrial Precinct

Retain the William Street industrial precinct as a vibrant industrial / service industrial and specialist business cluster in the short term (1 – 5 years).

Support office uses only in association with an industrial, warehouse or specialist business activity.

Ensure new use and development contributes to the creation of new pedestrian links along Stuart and Charles Streets, to connect William Street to Balaclava Station.

Precinct 5 - Inkerman / Pakington Streets Mixed Use Precinct (DDO21)

Encourage the establishment of home-based businesses.

Discourage shop uses, except where ancillary to another business use on the site.

Facilitate the renewal of the Inkerman / Pakington Street precinct as a preferred location for housing growth within the activity centre.

Support the transition of this precinct to a mixed residential and commercial (office) area, to provide new housing and employment opportunities.

Discourage licensed premises (bars, restaurants and nightclubs).

Precinct 6 - Chapel Street Mixed Use and Residential Precinct (DDO21)

Encourage high-quality redevelopment of the Australia Post site (corner of Chapel Street and Brighton Road) that contributes to the site's role as a key 'entry' to the activity centre, with significant new housing with potential for commercial use or display-based retailing at ground level.

Support the transition of the Chapel Street precinct to predominantly residential use, with active commercial frontages to Chapel Street.

Limit shop uses south of Marlborough Street, except where ancillary to another business use on the site.

Discourage licensed premises (bars/taverns, restaurant and nightclubs).

Precinct 7 - Marlborough Street Interface Precinct (DDO21)

Ensure that redevelopment of the station car park (44-60 Marlborough Street) respects the heritage values and low-rise, fine-grain built form on the south-side of Marlborough Street.

Facilitate redevelopment of the station car park (44-60 Marlborough Street) for affordable (social) housing, with a range of dwelling types suitable for older persons, singles and family households, and a component of private housing addressing Marlborough Street.

Ensure any future use and development of the site at 4-20 Marlborough Street reinstates residential use (or entries) on the north side of the street.

PORT PHILLIP PLANNING SCHEME

Precinct 8 – Established Residential Areas

Ensure any new residential development in established residential areas proximate to the Carlisle Street Major Activity Centre is consistent with the level of change and the preferred neighbourhood character, as identified in the *Carlisle Street Activity Centre Structure Plan* (City of Port Phillip, 2009).

Ensure established residential areas retain their generally mixed architectural character and diverse housing stock, while heritage buildings and streetscapes are conserved and enhanced.

Ensure development within Balston Street, Carlisle Avenue, Marlborough Street, Rosamond Street, Nightingale Street and Bothwell Street maintains the highly consistent neighbourhood character.

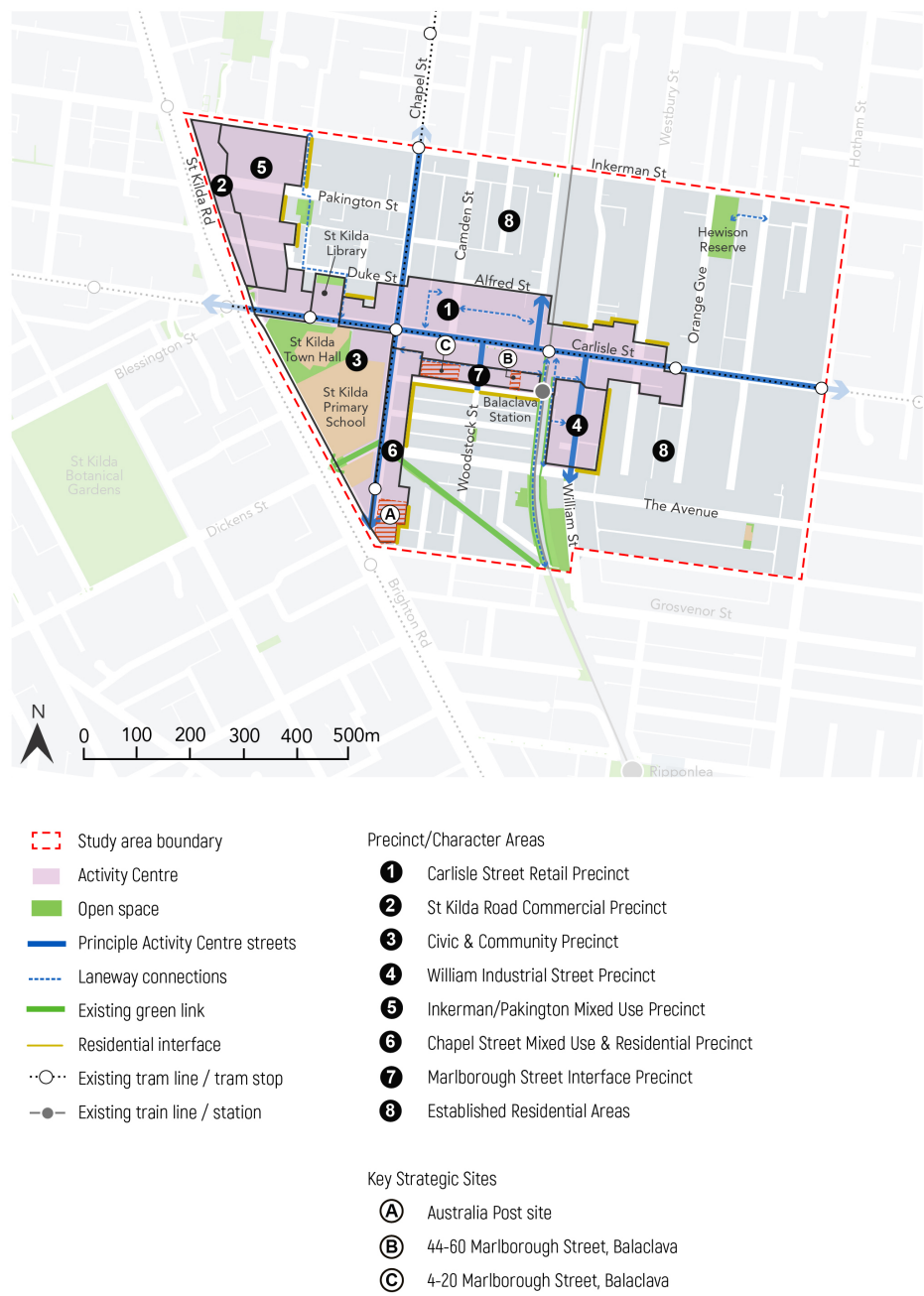
Policy documents

Consider as relevant:

- *Carlisle Street Activity Centre Structure Plan* (City of Port Phillip, 2009)
- *Carlisle Street Urban Design Framework* (City of Port Phillip and David Lock Associates, 2009)
- *Port Phillip Design Manual* (City of Port Phillip, 2000)
- *Sustainable Transport Policy and Parking Rates Report* (Ratio, 2007)

PORT PHILLIP PLANNING SCHEME

Carlisle Street Major Activity Centre and study area



11.03-1L-04 Local and neighbourhood activity centres

14/04/2023
C203port

Policy application

This policy applies to the local and neighbourhood activity centres, as shown on the map to this clause.

PORT PHILLIP PLANNING SCHEME

Objective

To reinforce the role and character of local and neighbourhood centres to provide goods, services and employment opportunities that serve the needs of the surrounding community.

Strategies

Centre Avenue Neighbourhood Activity Centre, Port Melbourne

Support the development of the centre by encouraging:

- A convenience goods and services role.
- Community facilities and services.

Build upon the centre's role as public transport terminus.

Maintain an attractive, streetscape with a high level of amenity for users of the centre.

Bridport Street / Victoria Avenue Neighbourhood Activity Centre, Albert Park

Support new licenced and entertainment premises provided there is on site car parking adequate to meet the needs of patrons and staff, and the use will complement the primary retail role of the centre.

Encourage community uses to establish in the centre.

Design development to respect the following elements:

- The predominant one and two storey scale of Victorian buildings, with higher development setback from the principle street to minimise its visibility.
- The prominence of landmark buildings including the 'Biltmore' (152 Bridport Street), the Windsor Hotel (107 Victoria Avenue), the Albert Park Hotel (85 Dundas Place) and the former ES&A Bank (95 Dundas Place).
- The consistent streetscape frontage widths to buildings.
- Views to Albert Park toward the Bay from Victoria Avenue.
- The island open space reserve (Broadway Tree Reserve) in Albert Park Village.

Support the reinstatement of original verandah forms to the commercial buildings on Bridport Street and Victoria Avenue.

Armstrong Street Neighbourhood Activity Centre, Middle Park

Support the daily and weekly retail goods and services role, and local entertainment role of the centre.

Design development to respect the following elements:

- The predominant 1 and 2 storey scale of Victorian buildings, with higher development setback from the principal street to minimise its visibility.
- The regular streetscape pattern created by consistent frontage widths to buildings.
- Views to Albert Park.

Ormond / Glen Huntly Road Neighbourhood Activity Centre, Elwood

Reinforce the primary daily / weekly retail goods and services role of Elwood Junction and Elwood Village.

Support new local entertainment premises in Elwood Junction and Elwood Village, provided there is on site car parking adequate to meet the needs of patrons and staff, and the use will complement the primary retail role of the centre.

Encourage moderate intensification of housing.

PORT PHILLIP PLANNING SCHEME

Tennyson Street Neighbourhood Activity Centre, Elwood

Support the daily and weekly retail goods and services role of the centre.

Design development to respect the following elements:

- The two storey scale of buildings.
- The zero frontage setbacks.
- The mature street trees.

Glen Eira Road Neighbourhood Activity Centre, Ripponlea

Support the daily and weekly retail goods and services role of the centre.

Support new local entertainment uses provided there is adequate on site car parking, and the use will complement the primary retail role of this centre.

Design development to respect the following elements:

- The consistent two storey scale of the centre, architectural style and streetscape pattern of Federation and Inter-war buildings.
- The zero frontage setbacks of buildings.
- The Ripponlea Railway Station and surrounding reserve that defines the western end of the centre.

Brighton Road Local Activity Centre, St Kilda (Elwood)

Support a convenience retail goods and services role for the centre, that maximises opportunities to improve the economic viability of the centre and strengthen its appeal to passing trade.

Design development to respect the predominant two storey scale of development in Brighton Road, and the consistent streetscape pattern and grain created by the inter-war shop fronts.

Inkerman Street / Grey Street Local Activity Centre, St Kilda

Encourage a convenience retail goods and services role for the centre.

Encourage a zero street setback from front boundaries in Barkly, Vale and Inkerman Streets.

Inkerman Street Local Activity Centre, St Kilda East

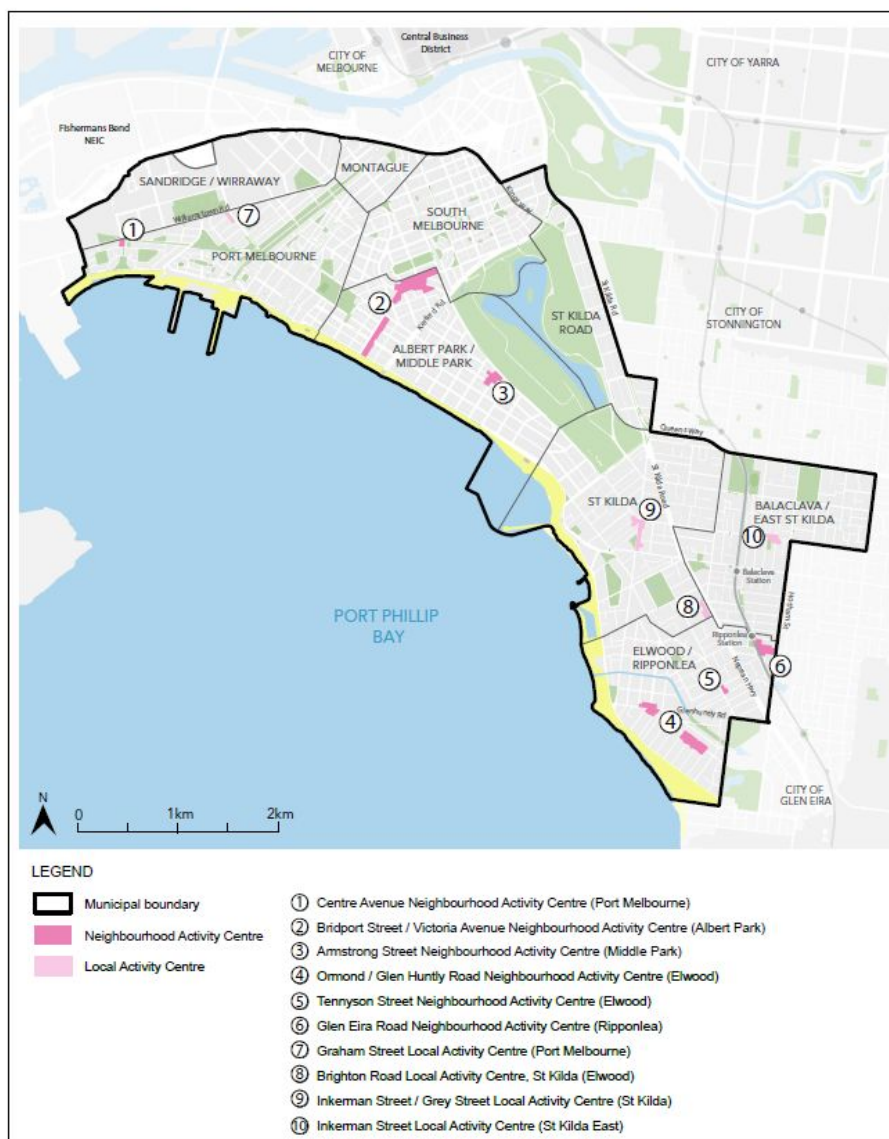
Encourage a convenience retailing, and personal / business services role for the centre.

Design development to respect the following elements:

- The predominant two storey building scale of the centre.
- The zero frontage setbacks of buildings.
- The park at the corner of Orange Grove and Inkerman Street.

PORT PHILLIP PLANNING SCHEME

Local and neighbourhood activity centres



11.03-1L-05 South Melbourne Central Major Activity Centre

14/04/2023
C203port

This policy applies to all land in the South Melbourne Central Major Activity Centre and environs, as shown on the map to this clause.

Activity and business mix

Objective

To develop a sustainable mixed use precinct focused on the South Melbourne Central Major Activity Centre, that includes local and specialised retailing, while retaining the unique urban village character and street life.

PORT PHILLIP PLANNING SCHEME

Strategies

Promote activity, diversity and vitality by:

- Ensuring that the centre retains its vital local convenience retail and service role which serves the surrounding residential community and workforce.

Support the local economy by:

- Protecting and enhancing the core sub-regional retail role of the centre.
- Promoting the centre as a sub-regional retail destination with a business services and light industry focus.
- Exploiting the centre's strategic location, adjacent to the Central City, as an expanding location for knowledge-based and creative industries.
- Protecting the core industrial role of the centre's industrial precincts from pressure for alternative land uses.

Create a great place to live by:

- Encouraging a moderate intensification of housing, with a consistently high design quality to enhance the visual and streetscape amenity of the area.
- Balancing increased mixed use and residential development pressure in the northern precincts of the centre, given their proximity to Southbank and the Central City.
- Encouraging the provision of additional open space opportunities, particularly north of Park Street within the centre's wide footpaths.

Ensuring that new development respects:

- The views of the South Melbourne Town Hall clock tower in Clarendon and Park Street.
- The view of the Shrine of Remembrance along Bank Street.
- Views to the City and Albert Park.

South Melbourne Central Precincts

Objective

To provide for high quality, well designed use and development in the precincts of South Melbourne Central, as shown in the map to this policy.

Strategies

Clarendon Street Core Retail Strip

Retain the daily / weekly retail goods and services role as the retail focus of the wider South Melbourne Central precinct with upper level residential or small office uses.

Strengthen Clarendon Street as a key pedestrian connection between the centre and the Central City.

Encourage activities that complement the core retail function of Clarendon Street.

Coventry Street Specialty Shopping Centre (within South Melbourne Central)

Reinforce the precinct as a regionally significant specialty retailing area and as a vital pedestrian link between Clarendon Street and the South Melbourne Market.

South Melbourne Market Precinct

Reinforce South Melbourne Market as a principal retail and community focus for the local and wider area.

PORT PHILLIP PLANNING SCHEME

Encourage residential, community or commercial uses on the western edge of the market, provided the operation of the market is ongoing.

Emerging Activity Precinct

Encourage activities that complement the core retail function of Clarendon Street.

Diversify land uses through mixed use development with ground level retail or commercial frontages and upper level office and residential.

Northern Mixed Activity Edge

Support conference or function centres on larger sized lots, subject to parking considerations.

Support upper level office and residential development.

Southern Mixed Activity Edge

Support retail, service business, small-medium or home offices, and residential uses in the precinct.

Eastern Business District

Support the substantial light industrial / service business and expanding high technology / knowledge based industries in the precinct.

Support small scale office use and development for start-up and emerging business, and the creative arts, including small studio spaces.

Western Business District

Support new office development and the precinct's substantial light industrial / service business and showroom role and expanding high technology / knowledge-based industry business roles.

Maintain an attractive and vibrant interface between the precinct and South Melbourne Central along Market Street.

Kings Way Mixed Use Corridor

Create a regionally significant mixed use area.

Provide quality, higher density residential use and development (including above larger scale commercial development).

Create an attractive boulevard between the City of Port Phillip and the Central City by ensuring excellence in the design of new buildings and the public realm.

Ferrars Street Light Rail Corridor

Support 'out of centre' and restricted retail premises where they will not detrimentally impact on the core retailing role of the activity centre.

Encourage transit-based development through mixed use retail (including small scale convenience retail clustered around transport stops) and increased residential density.

Emerald Hill Civic, Cultural and Community Hub

Develop the South Melbourne Town Hall and Emerald Hill as the major focus of cultural activity and an integrated network of civic, cultural and community facilities for the local and wider community.

Encourage cultural, community and educational facilities to establish in and adjacent to this precinct.

Support the establishment of an Urban History Centre in the Emerald Hill precinct.

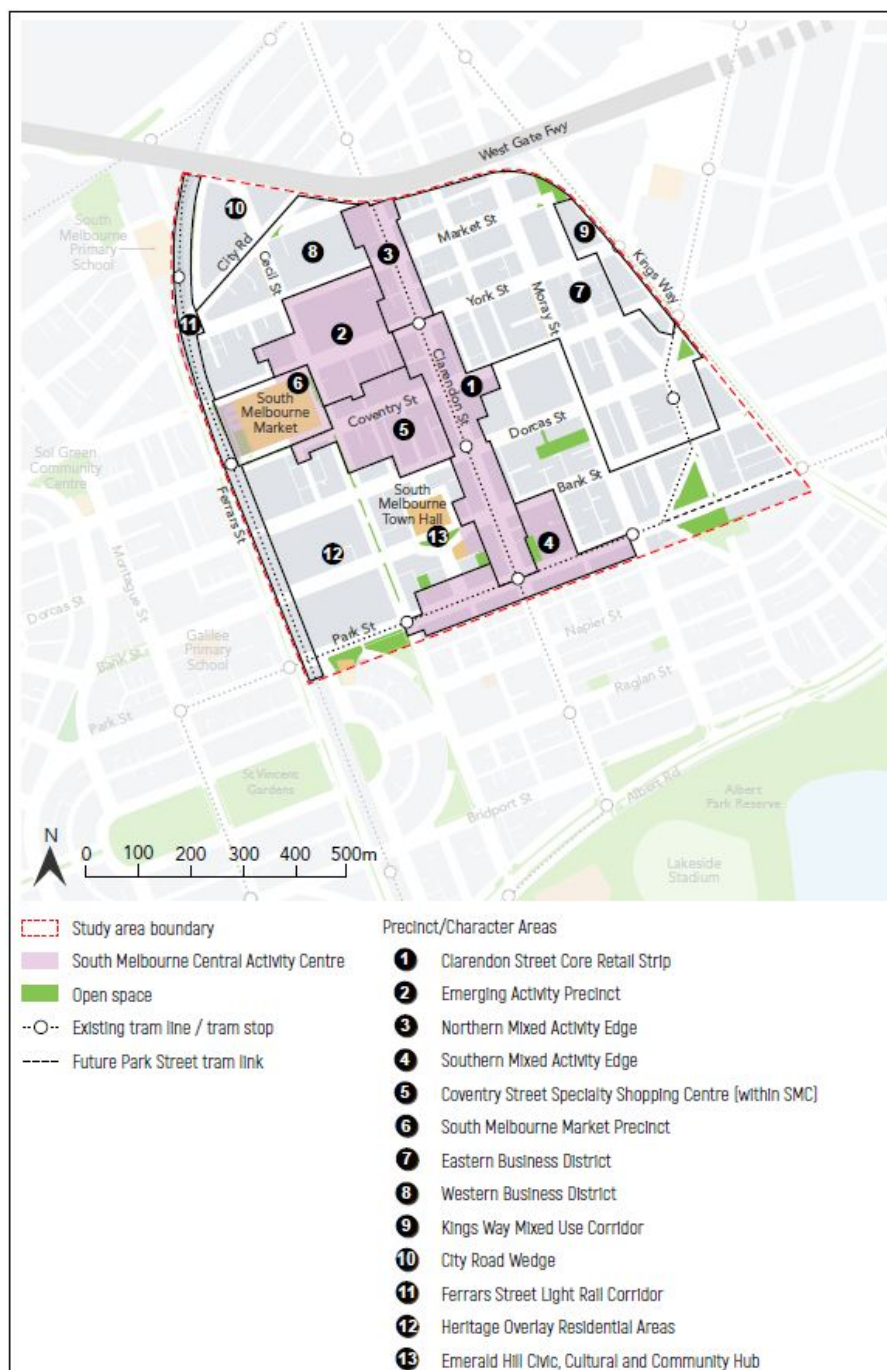
Policy documents

Consider as relevant:

PORT PHILLIP PLANNING SCHEME

- *South Melbourne Central Structure Plan* (City of Port Phillip, August 2007)
- *South Melbourne Central Urban Design Framework* (David Lock Associates and City of Port Phillip, August 2007)

South Melbourne Central Major Activity Centre and Study Area



PORT PHILLIP PLANNING SCHEME

11.03-1L-06 St Kilda Major Activity Centre

07/08/2023
G243port Proposed C220port

Policy application

This policy applies to all land in the St Kilda Major Activity Centre as defined by the boundaries of the Commercial 1 Zone along Fitzroy and Acland Streets, St Kilda.

Objective

To reinforce the St Kilda Major Activity Centre as a significant retail, recreational, tourism, entertainment and leisure destination, whilst managing the cumulative impacts on local amenity and community safety.

Fitzroy Street

Strategies

Retain the spacious boulevard atmosphere of Fitzroy Street.

Promote the tourism and entertainment role of Fitzroy Street, which includes live music, while maintaining the local retail servicing role, including core retail along Fitzroy Street between Princes and Acland Streets.

Encourage office and non-retail commercial uses north of Princes Street and facilitate a transition to St Kilda Junction.

Encourage non-retail commercial uses and residential development on the north-west side of Fitzroy Street, between Beaconsfield Parade and Canterbury Road.

Ensure the design of new development respects:

- The slope of the street toward the sea.
- The wide pavements and spacious character of Fitzroy Street.

Acland Street

Strategies

Promote the tourism and entertainment role of Acland Street, which includes live music, while retaining the distinctive village atmosphere and local retailing services role.

Ensure new development respects the strong seaside location and the low scale, fine grain built form at the street edge.

PORT PHILLIP PLANNING SCHEME

St Kilda Major Activity Centre



11.03-2S
04/05/2022
VC210

Growth areas

Objective

To locate urban growth close to transport corridors and services and provide efficient and effective infrastructure to create sustainability benefits while protecting primary production, major sources of raw materials and valued environmental areas.

PORT PHILLIP PLANNING SCHEME

Strategies

Concentrate urban expansion into growth areas that are served by high-capacity public transport.

Implement the strategic directions in the Growth Area Framework Plans.

Encourage average overall residential densities in the growth areas of a minimum of 15 dwellings per net developable hectare, and over time, seek an overall increase in residential densities to more than 20 dwellings per net developable hectare.

Deliver timely and adequate provision of public transport and local and regional infrastructure and services, in line with a preferred sequence of land release.

Provide for significant amounts of local employment opportunities and in some areas, provide large scale industrial or other more regional employment generators.

Create a network of mixed-use activity centres that are high quality, well designed and create a sense of place.

Provide a diversity of housing type and distribution.

Retain unique characteristics of established areas impacted by growth.

Protect and manage natural resources and areas of heritage, cultural and environmental significance.

Create well planned, easy to maintain and safe streets and neighbourhoods that reduce opportunities for crime, improve perceptions of safety and increase levels of community participation.

Develop Growth Area Framework Plans that will:

- Include objectives for each growth area.
- Identify the long term pattern of urban growth.
- Identify the location of broad urban development types, for example activity centre, residential, employment, freight centres and mixed use employment.
- Identify the boundaries of individual communities, landscape values and, as appropriate, the need for discrete urban breaks and how land uses in these breaks will be managed.
- Identify transport networks and options for investigation, such as future railway lines and stations, freight activity centres, freeways and arterial roads.
- Identify the location of open space to be retained for recreation, and/or biodiversity protection and/or flood risk reduction purposes guided and directed by regional biodiversity conservation strategies.
- Show significant waterways as opportunities for creating linear trails, along with areas required to be retained for biodiversity protection and/or flood risk reduction purposes.
- Identify appropriate uses for constrained areas, including quarry buffers.

Develop precinct structure plans consistent with the *Precinct Structure Planning Guidelines* (Victorian Planning Authority, 2021) approved by the Minister for Planning to:

- Establish a sense of place and community.
- Create greater housing choice, diversity and affordable places to live.
- Create highly accessible and vibrant activity centres.
- Provide for local employment and business activity.
- Provide better transport choices.
- Respond to climate change and increase environmental sustainability.
- Deliver accessible, integrated and adaptable community infrastructure.

PORT PHILLIP PLANNING SCHEME

Policy documents

Consider as relevant:

- Any applicable Growth Area Framework Plans (Department of Sustainability and Environment, 2006)
- *Precinct Structure Planning Guidelines* (Victorian Planning Authority, 2021)
- *Ministerial Direction No. 12 – Urban Growth Areas*

PORT PHILLIP PLANNING SCHEME

11.03-3S

31/07/2018
VC148

Peri-urban areas

Objective

To manage growth in peri-urban areas to protect and enhance their identified valued attributes.

Strategies

Identify and protect areas that are strategically important for the environment, biodiversity, landscape, open space, water, agriculture, energy, recreation, tourism, environment, cultural heritage, infrastructure, extractive and other natural resources.

Provide for development in established settlements that have capacity for growth having regard to complex ecosystems, landscapes, agricultural and recreational activities including in Warragul-Drouin, Bacchus Marsh, Torquay-Jan Juc, Gisborne, Kyneton, Wonthaggi, Kilmore, Broadford, Seymour and Ballan and other towns identified by Regional Growth Plans as having potential for growth.

Establish growth boundaries for peri-urban towns to avoid urban sprawl and protect agricultural land and environmental assets.

Enhance the character, identity, attractiveness and amenity of peri-urban towns.

Prevent dispersed settlement and provide for non-urban breaks between urban areas.

Ensure development is linked to the timely and viable provision of physical and social infrastructure.

Improve connections to regional and metropolitan transport services.

PORT PHILLIP PLANNING SCHEME

11.03-4S

20/03/2023
VC229

Coastal settlement

Objective

To plan for sustainable coastal development.

Strategies

Plan and manage coastal population growth and increased visitation so that impacts do not cause unsustainable use of coastal resources.

Support a network of diverse coastal settlements that provide for a broad range of housing types, economic opportunities and services.

Identify a clear settlement boundary around coastal settlements to ensure that growth in coastal areas is planned and coastal values are protected. Where no settlement boundary is identified, the extent of a settlement is defined by the extent of existing urban zoned land and any land identified on a plan in the planning scheme for future urban settlement.

Minimise linear urban sprawl along the coastal edge and ribbon development in rural landscapes.

Protect areas between settlements for non-urban use.

Limit development in identified coastal hazard areas, on ridgelines, primary coastal dune systems, shorelines of estuaries, wetlands and low-lying coastal areas, or where coastal processes may be detrimentally impacted.

Encourage the restructure of old and inappropriate subdivisions to reduce development impacts on the environment.

Ensure a sustainable water supply, stormwater management and sewerage treatment for all development.

Minimise the quantity and enhance the quality of stormwater discharge from new development into the ocean, bays and estuaries.

Prevent the development of new residential canal estates.

Policy documents

Consider as relevant:

- *G21 Regional Growth Plan* (Geelong Region Alliance, 2013)
- *Gippsland Regional Growth Plan* (Victorian Government, 2014)
- *Great South Coast Regional Growth Plan* (Victorian Government, 2014)
- *Marine and Coastal Policy* (Department of Environment, Land, Water and Planning, 2020)
- *Marine and Coastal Strategy* (Department of Environment, Land, Water and Planning, 2022)
- *Siting and Design Guidelines for Structures on the Victorian Coast* (Department of Environment, Land, Water and Planning, 2020)

PORT PHILLIP PLANNING SCHEME

11.03-5S

30/04/2021
VC185

Distinctive areas and landscapes

Objective

To recognise the importance of distinctive areas and landscapes to the people of Victoria and protect and enhance the valued attributes of identified or declared distinctive areas and landscapes.

Strategies

Recognise the unique features and special characteristics of these areas and landscapes.

Implement the strategic directions of approved Localised Planning Statements and Statements of Planning Policy.

Integrate policy development, implementation and decision-making for declared areas under Statements of Planning policy.

Recognise the important role these areas play in the state as tourist destinations.

Protect the identified key values and activities of these areas.

Enhance conservation of the environment, including the unique habitats, ecosystems and biodiversity of these areas.

Support use and development where it enhances the valued characteristics of these areas.

Avoid use and development that could undermine the long-term natural or non-urban use of land in these areas.

Protect areas that are important for food production.

Policy documents

Consider as relevant:

- *Bellarine Peninsula Localised Planning Statement* (Victorian Government, 2015)
- *Macedon Ranges Statement of Planning Policy* (Victorian Government, 2019)
- *Mornington Peninsula Localised Planning Statement* (Victorian Government, 2014)
- *Yarra Ranges Localised Planning Statement* (Victorian Government, 2017)

PORT PHILLIP PLANNING SCHEME

11.03-6S

31/07/2018
VC148

Regional and local places

Objective

To facilitate integrated place-based planning.

Strategies

Integrate relevant planning considerations to provide specific direction for the planning of sites, places, neighbourhoods and towns.

Consider the distinctive characteristics and needs of regional and local places in planning for future land use and development.

PORT PHILLIP PLANNING SCHEME

11.03-6L-01 St Kilda Foreshore

07/08/2023
C213port

Policy application

This policy applies to the St Kilda Foreshore area, as shown on the map to this clause.

General

Objectives

To create an equitable balance between the needs of the local community, the Foreshore's important regional tourism role and the ecological future of the Bay.

To ensure an integrated approach to the revitalisation of the St Kilda Foreshore area, including any development of the Triangle site through the activity mix, built form and improvements to the public realm.

Cultural heritage and activity mix

Objective

To maintain and reinforce the unique cultural heritage and recreational importance of the St Kilda Foreshore area.

Strategies

Support land use and development that contributes to the diverse character and reinforces the St Kilda Foreshore area as a key leisure and entertainment precinct.

Encourage uses and facilities that reinforce the role of key activity destinations including St Kilda Pier, St Kilda Harbour, West Beach area and the Triangle site.

Encourage the co-location of uses within defined activity nodes, including:

- New public space at the Palais Theatre.
- St Kilda Pier entry area.
- West Beach Pavilion.

Encourage development to incorporate urban art to enhance the layering of cultural elements along the St Kilda Foreshore area, and support legibility.

Retain the residential role of existing residential properties fronting the St Kilda foreshore.

Enhance the function of specific sites by:

- Consolidating yacht support services at the Royal Melbourne Yacht Squadron.
- Encouraging the development of new public facilities at the St Kilda Pier entry area.
- Encouraging the refurbishment of the West Beach Pavilion for community use with some complementary commercial use(s).
- Encouraging the use of the Veg Out site at the Peanut Farm Reserve as a community open space site.
- Encouraging the retention of community gardens as a vital community activity.

Built form

Objective

To ensure development does not dominate the Foreshore.

Strategies

Maintain the low-rise, (one and two storey) character of the Foreshore Reserve.

PORT PHILLIP PLANNING SCHEME

Support future building heights and forms that maintain and enhance the views from:

- The Upper Esplanade to the horizon, Williamstown, Marine lighthouse, the Stokehouse and Catani Arch.
- South Beach to the entrance of Luna Park.

Public space network and connections

Strategies

Improve cross connectivity between the built urban area and the Foreshore Reserve by:

- Establishing Shakespeare Grove and the Cowderoy Street – Pier Road link as safe and attractive pedestrian routes.
- Facilitating additional pedestrian crossings of Beach Road at locations identified in the map to this clause.

Encourage visual integration of the Foreshore Reserve by:

- Restoring and reinforcing established landscape themes.
- Co-ordinating street furniture and street design details.

Transport networks

Strategy

Manage adverse impacts of through traffic, particularly on Jacka Boulevard, Marine Parade, The Upper Esplanade and residential streets.

St Kilda Triangle site

Objective

To encourage the integrated renewal of the site for a variety of public spaces, and entertainment and cultural venues.

Strategies

Ensure that future use and development on the St Kilda Triangle site:

- Enhances local liveability.
- Creates a hub focused on the arts, entertainment and leisure.
- Provides a multipurpose community space.
- Includes limited commercial and retail land uses.
- Creates large areas of open space.
- Links Acland Street, Fitzroy Street and the foreshore through a highly pedestrianised environment.
- Establishes a key activity node within the St Kilda Foreshore area.
- Links new and existing buildings.

Maintain the traditional cultural use of the site and allow for new contemporary leisure activities.

Minimise noise transference through high quality facility design, landscaping and buffer zones.

Jacka Boulevard

Objective

To encourage the development of Jacka Boulevard as an attractive seaside boulevard with a multi-functional role.

PORT PHILLIP PLANNING SCHEME

Strategies

Support provision of safe and accessible pedestrian crossings.

Minimise impacts from vehicular traffic by planning for shared use of street spaces, where appropriate.

Improve direct pedestrian connection to the beach at the intersection with Fitzroy Street.

Encourage new pedestrian links to the Foreshore Reserve:

- From the Triangle Site.
- Between the Esplanade Hotel and St Kilda Pier.

St Kilda Harbour

Objective

To enable the sustainable use and development of the St Kilda Harbour.

Strategy

Facilitate sustainable boat usage of the Harbour by:

- Protecting significant natural coastal values.
- Protecting the water quality of the Harbour from adverse impacts of boating.
- Ensuring access to habitat areas are protected and managed.

Policy documents

Consider as relevant:

- *St Kilda Foreshore Urban Design Framework* (City of Port Phillip, 2002)
- *Port Phillip Urban Art Strategy* (City of Port Phillip, 2002)
- *Port Phillip Urban Iconography Study* (City of Port Phillip, 2004)
- *Recreational Boating Facilities Framework* (Central Coastal Board, 2014)

PORT PHILLIP PLANNING SCHEME

St Kilda Foreshore



11.03-6L-02 St Kilda Road North Precinct

14/04/2023
C203port

Policy application

This policy applies to the St Kilda Road North Precinct, as shown on the map to this clause.

Objectives

To reinforce the St Kilda Road North Precinct as a dynamic, connected, integrated, safe and inclusive place to live, work and visit.

PORT PHILLIP PLANNING SCHEME

To maintain the role of St Kilda Road as a preferred location for premier office accommodation and well-designed, higher density residential development.

Strategies

General

Encourage development of a vibrant area, providing for residential, commercial and community uses.

Encourage community spaces (such as meeting rooms) to be incorporated into new development.

Sub-Precinct 2: Northwest Corner (DDO26-2)

Ensure that use and development create a residential and mixed use environment, through an increased scale and density of development.

Sub-Precinct 3: Albert Road South (DDO26-3) and Sub-Precinct 4: Albert Road North and Bowen Crescent (DDO26-4)

- Encourage uses that support and enhance the strategic role of the Albert Road Mixed Activity Precinct as a key location for:
 - Office and related commercial development.
 - Residential development at higher density and larger scale than in the established residential area.

Sub-Precinct 5: St Kilda Road South of Kings Way (DDO26-5)

Ensure that the Sub-Precinct continues to develop as a premier office location outside of the Melbourne Central Activity District and a highly desirable residential location.

Encourage the development of a mixed use area on Raleigh and Union Streets.

Policy document

Consider as relevant:

- *St Kilda Road North Precinct Plan 2013* (City of Port Phillip, updated 2015)

PORT PHILLIP PLANNING SCHEME

St Kilda Road North Precinct and Sub-Precincts



11.03-6L-03 St Kilda Road South Precinct

07/08/2023
C213port

Policy application

This policy applies to the St Kilda Road South Precinct, as shown on the map to this clause.

PORT PHILLIP PLANNING SCHEME

General

Objective

To strengthen the St Kilda Road South Precinct's image, liveability and sense of place as it transitions to increased residential uses.

Strategies

Create a diverse series of neighbourhoods with a strong sense of place, community and local identity.

Encourage land uses that create activity nodes and community focal points for local residents and workers.

Provide additional opportunities for housing growth throughout the Precinct due to its proximity to public transport and activity centres.

Improve the amenity and function of St Kilda Road as a key pedestrian spine by providing active land use 'edges' at street level throughout commercial and mixed use areas.

Maintain solar access to key pedestrian streets and green links, including St Kilda Road, Wellington Street, Alma Road and Carlisle Street.

Ensure the interface between commercial and residential uses is well designed and non-residential uses are managed to protect residential amenity.

Discourage larger-scale licensed premises, bars and nightclubs that may impact on the amenity of the surrounding area.

Policy guidelines

Consider as relevant:

- Designing development to be self-sufficient in onsite car parking and providing onsite parking as follows:
 - Residential development:
 - One car space to each one and two bedroom dwelling.
 - Two car spaces to each three or more bedroom dwelling.
 - Secure bicycle parking at a rate of one space per dwelling.
 - Publicly accessible bicycle parking for visitors at a rate of one space per five dwellings.
 - Office: Three car spaces per 100 square metres.
 - Motorcycle parking at a minimum rate of one motorcycle parking space for every 100 car parking spaces to be provided onsite within new development.
 - Residential development of six or more storeys: Off-street loading facilities and allocated spaces for service vehicles.
- Limiting the hours of operation of licensed premises to 10pm.

Wellington Street Neighbourhood

Objective

To enhance the Wellington Street Neighbourhood as a local and mixed use 'village', and a green link between Chapel Street and Albert Park.

Strategies

Ensure development makes a positive contribution to the creation of a landscaped (green) pedestrian link along Wellington Street.

PORT PHILLIP PLANNING SCHEME

Along the north side of Wellington Street (DDO35):

- Facilitate a transition from a commercial to a mixed use with increasing residential uses.
- Facilitate clustering of cafes, convenience retailing and spaces for community use at the western end of Wellington Street and immediately east of Upton Road.
- Encourage commercial activities and residential frontages that activate the balance of Wellington Street, with upper level residential use.
- Limit land uses with the potential for adverse residential amenity impacts.

Along the south side of Wellington Street in a residential zone:

- Maintain the established residential role, with some additional medium density residential development consistent with the scale, neighbourhood character and heritage of the street.
- Reinforce the established low scale (1-2 storey) and fine grain of the heritage area, generally east of Upton Road.
- Reinforce the established 2-3 storey scale generally west of Upton Road, with well-designed 'infill' development on larger sites consistent with the established neighbourhood character.
- Maintain the established street rhythm of space between buildings and landscaping in the frontage setback.

Along the south side of Wellington Street at the western end in the Commercial 1 and Mixed Use zones (DDO35) facilitate an emerging activity hub by ensuring active, small scale ground level retail uses that contribute to street-life, such as cafes and shops.

St Kilda Road Neighbourhood

Objective

To reinforce the St Kilda Road Neighbourhood as a niche retail and business area, a growing residential community and a safe and friendly pedestrian environment.

Strategies

Support residential redevelopment in Alma Road (east of St Kilda Road).

Along the eastern side of St Kilda Road (DDO34):

- Create a continuous activated edge to the street through a diverse range of ground level retail and complementary commercial uses.
- Support upper level office and residential, and residential to the rear of commercial premises.

Along the western side of St Kilda Road (DDO27 and DDO36):

- Support residential development at the intersection of and north of Alma Road, and in Barkly Street, and Alma Road.
- Establish a ground level residential edge within residential side streets, south of Alma Road.

Carlisle Street Neighbourhood

Objective

To retain the established residential role and neighbourhood character of the Carlisle Street Neighbourhood with a mix of dwelling types, set along a 'green link' between East St Kilda and St Kilda.

Strategies

Facilitate medium density 'infill' residential development, consistent with the scale and neighbourhood character of the area.

PORT PHILLIP PLANNING SCHEME

Reinforce the prevailing low to mid-rise scale (2 to 4 storeys) of residential development.

Ensure new development respects and responds to the height and scale of existing residential buildings, through a comparable street-wall height and recessed upper level.

Ensure new development utilises articulation and building form to create the sense of a fine-grain subdivision pattern.

Maintain the street rhythm of space between buildings and landscaping in the frontage setback.

Create a sense of a fine-grain subdivision pattern through the articulation and building form of new development.

Policy guideline

Consider as relevant:

- Designing development to respect Carlisle Street as a landscaped (green) pedestrian link by maintaining solar access to the southern footpath of Carlisle Street between 10am and 3pm at the equinox (21 September).

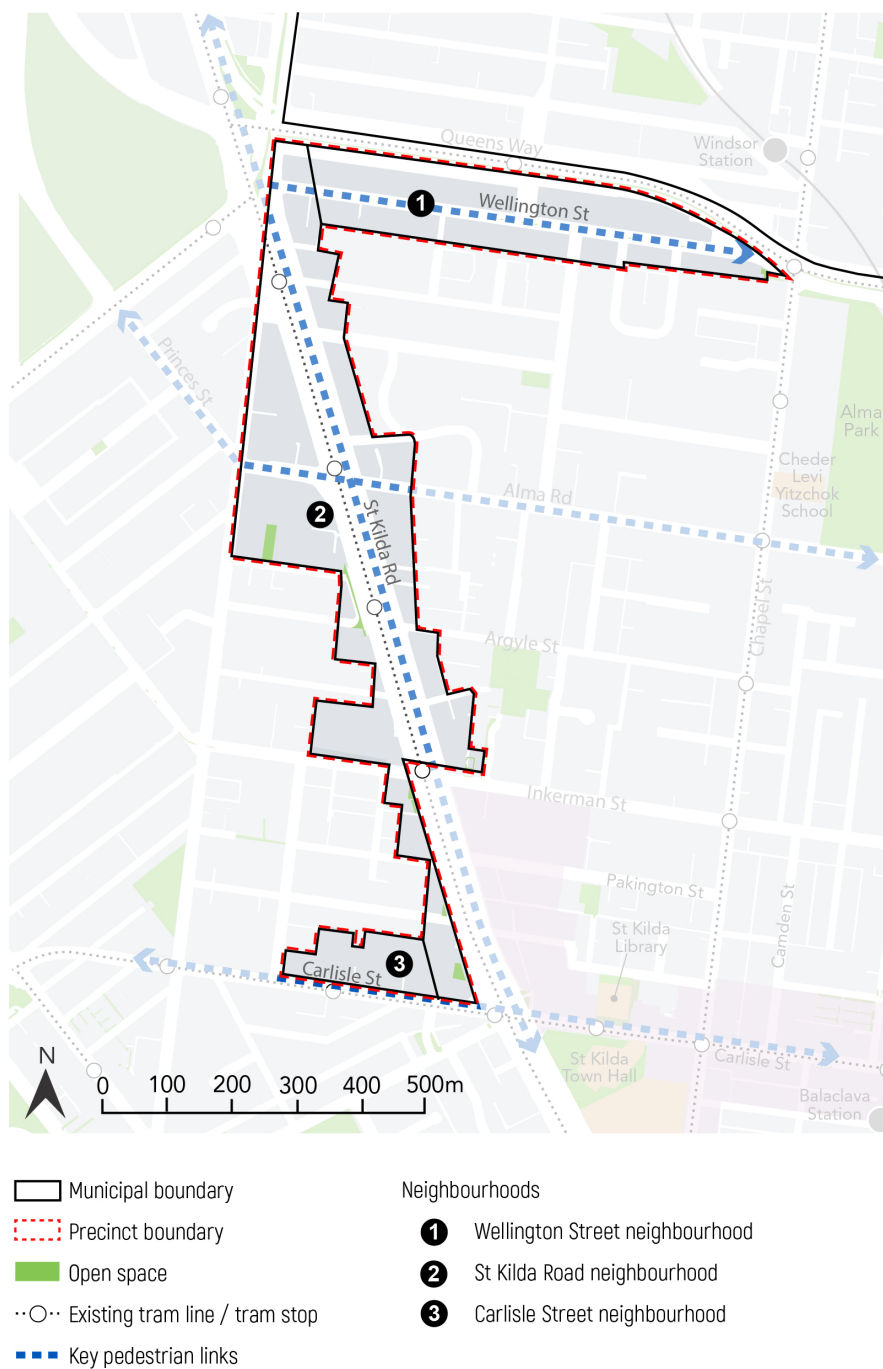
Policy document

Consider as relevant:

- *St Kilda Road South Urban Design and Land Use Framework* (Planisphere and City of Port Phillip, 2015)

PORT PHILLIP PLANNING SCHEME

St Kilda Road South Precinct and Neighbourhoods



PORT PHILLIP PLANNING SCHEME

11.03-6L-04 Fishermans Bend Urban Renewal Area14/04/2023
C203port**Policy application**

This policy applies to use and development of all land within Fishermans Bend affected by Schedule 1 to the Capital City Zone in the Port Phillip Planning Scheme.

Employment floor area objective

To support diverse employment opportunities across all precincts that build on proximity to the Central City and Port of Melbourne.

Employment floor area strategies

Promote employment generating floor space that supports jobs growth including, but not limited to, the knowledge, creative, design, innovation, engineering, and service sectors.

Employment floor area policy guidelines

Consider as relevant:

- Providing floor area for employment generating uses as part of development in a Core area, as identified on the relevant Map in Schedule 1 to the Capital City Zone, consistent with the preferred minimum plot ratio set out in Table 1, unless any of the following apply:
 - The built form envelope available on the site makes it impractical to provide the minimum plot ratios.
 - The application is associated with the continued operation or expansion of an existing employment or residential use on site.
 - The buildings floor to floor heights, layout and design of the development will facilitate future conversion from residential to employment generating uses or from car parking areas to other employment generating uses.
 - The development contributes to the employment objectives and strategies of this policy while providing less than the minimum plot ratio.

Table 1: Minimum plot ratio not used for Dwelling

Precinct	Minimum plot ratio not used for Dwelling (Core Areas)
Montague	1.6:1
Sandridge	3.7:1
Wirraway	1.9:1

Community and diversity objective

To ensure housing diversity, and the provision of community infrastructure and an open space network that supports a diverse and inclusive community.

Community and diversity strategies

Encourage a diversity of dwelling typologies and sizes within each precinct and within development sites.

Facilitate Affordable Housing within a range of built form typologies.

Support development that delivers a range of housing types suitable for households with children through:

- The development of mid-rise housing with access to private open space.

PORT PHILLIP PLANNING SCHEME

- Living room sizes that exceed minimum requirements.
- Access to outdoor communal open green space including children's play spaces on ground level, podium levels or roof tops and locating some dwellings to achieve direct visual connection to those play spaces.
- Providing children's communal active indoor play or recreation space as part of indoor communal spaces.
- Locating sufficient storage areas in areas with easy access to dwellings.

Support the delivery of adaptable floor plates including the opportunity to combine one and two-bedroom units to form larger apartments.

Encourage the early delivery of community infrastructure hubs.

Community and diversity policy guidelines

Consider as relevant:

- Providing the following percentage of three-bedroom dwellings for developments of more than 100 dwellings:
 - Montague: 25 per cent
 - Sandridge: 20 per cent
 - Wirraway: 30 per cent

Affordable Housing including Social Housing objective

To encourage the provision of Affordable Housing including Social Housing.

Affordable housing strategies

Design Affordable Housing so that it:

- Is a mix of one, two and three bedrooms that reflects the overall dwelling composition of the building.
- Provides internal layouts identical to other comparable dwellings in the building.
- Is externally indistinguishable from other dwellings.

Affordable housing policy guideline

Consider as relevant:

- Providing at least six per cent of dwellings permitted under the dwelling density requirements in the Capital City Zone (excluding any Social housing uplift dwellings) as Affordable housing, unless, any of the following apply:
 - The built form envelope available on the site makes it impractical to do so.
 - The development will contribute to the Affordable Housing objective of this policy while providing less than the minimum amount.
 - The Affordable housing objective of this policy would render the proposed development economically unviable.

Social housing strategies

Encourage development to provide a Social Housing uplift equivalent to eight additional private dwellings of equivalent size for each Social Housing dwelling, in addition to the provision of six per cent Affordable housing.

PORT PHILLIP PLANNING SCHEME

Social housing policy guidelines

Consider as relevant:

- Providing a Social Housing uplift, where:
 - The proposed Social Housing can be realistically delivered and secured by suitable legal agreement.
 - The proposed Social Housing is agreed to be received and managed by a registered Social Housing provider in perpetuity.
 - The Social Housing uplift will have acceptable consequences, having regard to the preferred character of the area, and the level of public transport and other infrastructure available.

Design excellence objective

To create a place of design excellence, with a distinct identity and character.

Design excellence strategies

Encourage varied built form typologies that align with the preferred precinct character specified in the relevant Schedule to the Design and Development Overlay.

Encourage fine grain, pedestrian scale environments.

Ensure buildings contribute to a high quality public realm.

Encourage developments to deliver spaces, including open spaces, for people to meet, gather, socialise, exercise and relax.

Ensure developments to deliver variation in massing, building height, and roof forms and the staggering or offsetting of tower footprints.

Achieving a climate adept, water sensitive, low carbon, low waste community objectives

To achieve a climate adept, water sensitive, low carbon, low waste community.

To ensure ecologically sustainable development.

To build resilience against the impacts of sea level rise and flooding from storm events without compromising the urban form at the ground level.

To create a low waste community that is designed to provide best practice waste and resource recovery management.

Achieving a climate adept, water sensitive, low carbon, low waste community strategies

Design development to incorporate renewable energy generation, on-site energy storage, and opportunities to connect to a future precinct-wide or locally distributed low-carbon energy supply.

Raise internal ground floor level above street level as a last resort, except where the implementation of other measures coupled with an evidence based approach to risk management reasonably necessitates raising internal floor levels above street level.

Where internal floor levels are raised, maintain a strong physical and visual connection between the street and internal floor levels through building design.

Where practicable, developments should create opportunities to:

- Optimise waste storage and efficient collection methods.
- Combine commercial and residential waste storage.
- Share storage or collections with adjacent developments.
- Separate collection for recycling, hard waste, and food and green waste.

PORT PHILLIP PLANNING SCHEME

Achieving a climate adept, water sensitive, low carbon, low waste community policy guidelines

Consider as relevant:

- Applying a 20 per cent improvement on current National Construction Code energy efficiency standards, including energy efficiency standards for building envelopes and for lighting and building services.
- Applying an average 7 star Nationwide House Energy Rating Scheme (NatHERS) rating for residential development.
- At least 70 per cent of the total site area to comprise building or landscape elements that reduce the impact of the urban heat island effect, including:
 - Vegetation, green roofs and water bodies.
 - Roof materials, shade structures, solar panels or hard scaping materials with high solar reflectivity index.
 - Non-glazed facade materials exposed to summer sun that have a low solar absorptance.
- Applying design elements and materials that are resilient to flooding, including water proof doors and windows, elevated power outlets and the like.
- Encouraging land uses at ground floor level that can easily recover from the impacts of temporary flooding.
- Integrating changes in floor levels between the street and internal ground floor into the design of the development.
- Locating essential services, such as power connections, switchboards and other critical services to avoid disruption in potential flooding events.
- Development and public realm layout and design should integrate best practice Water Sensitive Urban Design.

Communal spaces objective

To encourage residential development that includes private and communal spaces that cater for a range of users.

Communal spaces strategies

Create private and communal spaces within developments with a range of facilities, garden and recreation areas to supplement the public open space network.

Ensure development with an interface to existing or proposed open space avoids unreasonable impacts, including through vehicle movement to or from the development on the:

- Amenity or microclimate impacts to the open space.
- Function or useability of the open space.

Support internal and external communal spaces within the same development to connect to one another and be designed as multifunctional, adaptable spaces.

Support the provision of additional publicly accessible areas at ground level that contribute to the creation of a network of passive, formal and informal recreational spaces.

Ensure communal open space is designed to meet the needs of a range of potential users.

Ensure the location, design and layout of publicly accessible open space areas at ground level is integrated with adjoining areas of open space.

PORT PHILLIP PLANNING SCHEME

Landscaping objective

To ensure developments provide landscaping in all areas of open space including public open space, communal open space and private open space.

Landscaping strategies

Ensure landscape areas:

- Contribute to the creation of a sense of place and identity and the preferred character sought for the precinct.
- Incorporate innovative approaches to flood mitigation and stormwater run-off, and best practice Water Sensitive Urban Design.
- Incorporate opportunities for community gardens.
- Interpret and celebrate heritage and culture, including Aboriginal cultural heritage in public open space design.

Encourage plant selection to:

- Support the creation of complex and biodiverse habitat that includes indigenous flora and fauna.
- Balance the provision of native plants with exotic climate resilient plants that provide for biodiversity.
- Support the creation of vegetation links within Fishermans Bend to surrounding areas of biodiversity through plant selection and landscape design.
- Incorporate food plants.

Incorporate green facades, rooftop, podium or terrace planting into development that is water efficient, responds to micro-climate conditions and is located and designed to be sustainable and resilient.

Landscaping policy guidelines

Consider as relevant:

- Minimum deep soil areas with a minimum depth of 1.5 metres for canopy trees.

New streets, laneways and pedestrian connections objective

To create a network of new streets and laneways that provide permeability and accessibility through all precincts.

New streets, laneways and pedestrian connections strategies

Facilitate streets, laneways and pedestrian connections that:

- Provide direct access to existing or proposed public transport stations and routes, and existing or proposed public open space.
- Prioritise pedestrian movement and safety in shared streets or shared laneways.

Design streets and laneways to:

- Enable views through the street block.
- Have active frontages in a Core area.
- Be open to the sky.
- Allow for canopy tree planting.

Provide new streets, laneways or paths to create mid-block through links and define and separate buildings on sites of more than 3000 square metres.

PORT PHILLIP PLANNING SCHEME

New streets, laneways and pedestrian connections policy guidelines

Consider as relevant:

- Spacing streets, laneways and pedestrian connections:
 - In Core areas, not more than 50 to 70 metres apart in a north-south direction and 100 metres apart in the other direction in a block.
 - In Non-core areas, not more than 100 metres apart and be oriented in a north-south direction.

Sustainable transport objective

To create a connected, permeable and accessible community that prioritises walking, cycling, and public transport use.

Sustainable transport strategies

Ensure development does not compromise the delivery of future public transport including new tram, train and bus routes.

Reduce impacts of new vehicle access points on pedestrian, public transport and bicycle priority routes.

Design internal connections to give priority to pedestrian and bicycle movements. Provide easy access to bicycle parking facilities, including end of trip change rooms, showers and lockers.

Encourage developments to provide less than the preferred maximum number of car spaces.

Encourage developments to provide for future conversion of car parking to alternative uses.

Land use transition objectives

To facilitate the transition from a primarily industrial area to a high-density mixed use area.

To support the continued operation of existing uses which are of strategic importance to the urban renewal of Fishermans Bend.

Land use transition strategies

Ensure new uses and the expansion of existing uses with potential adverse amenity impacts do not prejudice the urban renewal of Fishermans Bend.

Ensure new development addresses the amenity impacts of nearby existing uses.

Policy documents

Consider as relevant:

- *Fishermans Bend Vision* (Department of Environment, Land, Water and Planning, September 2016)
- *Fishermans Bend Framework* (Department of Environment, Land, Water and Planning, September 2018)

11.03-6L-05 Fishermans Bend Urban Renewal Area - Montague Precinct

14/04/2023
C203port

Policy application

This policy applies to the use and development of all land within the Montague Precinct of the Fishermans Bend Urban Renewal Area, as defined by the DDO30.

Objective

To establish Montague as a diverse and well-connected mixed use neighbourhood with its own distinct character and identity celebrating its significant cultural and built heritage, and network of gritty streets and laneways.

PORT PHILLIP PLANNING SCHEME

Strategies

Support mixed use development that provides active street edges and establishes a high quality public realm.

Encourage the highest concentration and mix of uses in the defined core areas, located on public transport nodes and routes.

Support big box retail development that compliments existing and planned retail uses in its catchment.

Ensure the social impacts of developments accommodating more than 100 dwellings are considered and addressed through the preparation of a Social Impact Assessment.

Enhance the existing network of laneways with new laneways and through block links that provide permeability and connectivity through street blocks.

Montague North (M1)

Strategies

Support the establishment of Montague North as a gateway to Fishermans Bend from the Central City, Southbank and Docklands.

Support development that allows for sunlight access to the southern side of Normanby Road at September equinox.

Support buildings where parts of the street wall are setback from the street boundary at ground level to create forecourts, courtyards and landscaping at building entrances.

Support the transformation of Normanby Road into a landscaped, pedestrian friendly boulevard and civic spine defined by active edges that provides a key cycling connection through the precinct.

Support the delivery of a Sports and Recreation Hub (or part of cluster) as part of mixed use development within the 'investigation area' shown on Map 2.

Support the provision of walking and cycling links that enhance connections to the eastern part of Sandridge and Montague South (M2-6).

Support the provision of commercial and some retail and community uses to be located within podium and upper levels of mixed use buildings.

Encourage businesses to locate in proximity to nearby cultural uses, and high quality, high amenity public realm.

Encourage development to provide active frontages to the new 'Montague North Park' open space located at the intersection of Montague Street and Munro Street.

Montague South (M2-6)

Strategies

Support the establishment of Buckhurst Street as the heart of the neighbourhood and the primary focus of commercial and civic amenity within Montague South anchored by community hubs.

Encourage new laneways to complete 'missing links' between primary and secondary active frontages/retail streets.

Encourage smaller building footprints to add to existing the fine grain character.

Support the establishment of a high amenity, linear green spine along Buckhurst Street that accommodates the 'Bay to City' cycling connection.

Support the establishment of Buckhurst Street as a primary anchor for the precinct.

Support the creation of parks and community hubs, and high amenity streets that provide high quality social spaces to gather, relax and connect.

PORT PHILLIP PLANNING SCHEME

Encourage the establishment of a diverse range of small-medium sized businesses, co-working spaces, small creative businesses and studios that contribute to the identity of the area.

Map 1: Sub-precincts within the Montague precinct



Map 2: Community infrastructure investigation areas within the Montague precinct



11.03-6L-06 Fishermans Bend Urban Renewal Area - Sandridge Precinct

14/04/2023
C203port

Policy application

This policy applies to the use and development of all land within Sandridge Precinct of the Fishermans Bend Urban Renewal Area, as defined by DDO32.

PORT PHILLIP PLANNING SCHEME

Objective

To establish Sandridge as a premium office and commercial neighbourhood with diverse housing and retail opportunities, and its own distinct character and identity.

Strategies

Encourage development that integrates community facilities, larger format commercial offices and retail uses such as supermarkets and department stores within core areas.

Encourage the highest concentration and mix of uses in the defined core areas, located on public transport nodes and routes.

Support big box retail development that compliments existing and planned retail uses in its catchment.

Ensure the social impacts of developments accommodating more than 100 dwellings are considered and addressed through the preparation of a Social Impact Assessment.

Support tower development within core areas that produce a strong vertical form or landmarks.

Support low rise buildings with defined, active frontages around the perimeter of the North Port Oval.

Support the delivery of a centrally located underground metro rail station with transport interchange and public square, connecting directly to the Central City and to Melbourne's western region.

Support the delivery of a tram route along the future Fennell Street and Plummer Street civic spine that provides a direct, high frequency public transport connection to Docklands and the Central City and services the core area.

Support the delivery of a new and upgraded bridges over the Westgate Freeway at Ingles Street and Graham Street, and Hartley Street and Fennell Street, to provide public transport, cycling infrastructure and pedestrian access.

Enhance the planned network of public open spaces and plazas through strategic road closures to create new plazas and linear parks.

Support the delivery of an Arts and Cultural Hub as an integrated part of mixed use development, located within the 'investigation area' shown on Map 2 generally surrounding the tram route.

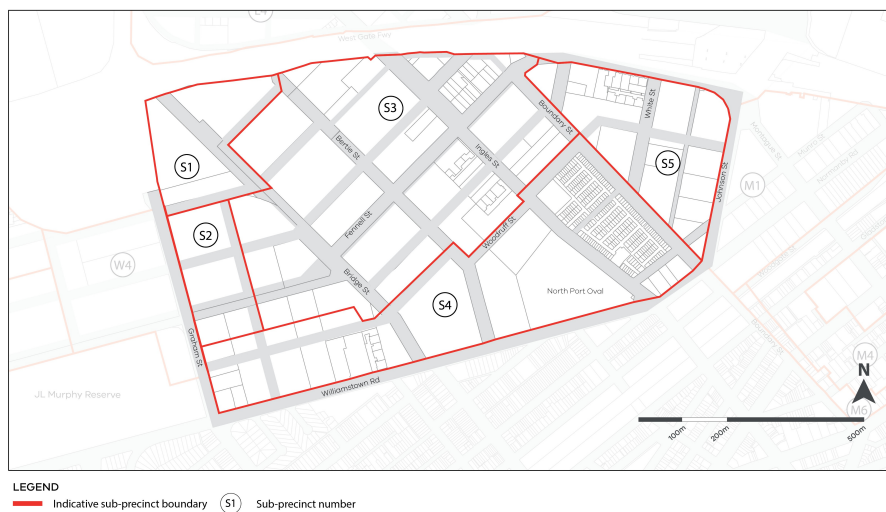
Support the delivery of a Sports and Recreation Hub as part of mixed use development within the 'investigation area' shown on Map 2 at the eastern part of the precinct.

Integrate the North Port Oval and grandstand with expanded open space, creating a key anchor for community, civic and recreational uses.

Support the delivery of an Education and Community Hub (primary) as part of mixed use development near the expanded North Port Oval parkland.

PORT PHILLIP PLANNING SCHEME

Map 1: Sub-precincts within the Sandridge precinct



Map 2: Community infrastructure investigation areas within the Sandridge precinct



11.03-6L-07 Fishermans Bend Urban Renewal Area - Wirraway Precinct

14/04/2023
C203port

Policy application

This policy applies to the use and development of all land within the within Wirraway Precinct of the Fishermans Bend Urban Renewal Area, as defined by the DDO33.

Objective

To establish Wirraway as a family-friendly inner city neighbourhood and place for innovation and creativity with its own distinct character and identity.

PORT PHILLIP PLANNING SCHEME

Strategies

Encourage the establishment of a neighbourhood centre that supports local cafes, restaurants, shops and businesses and a high degree of housing choice, including apartment buildings with a focus on family friendly housing.

Support the development of the precinct as a thriving arts scene and a place for innovation and creativity with small galleries, art and design centres and cultural facilities attract visitors from across Melbourne and beyond.

Support the development of industrial uses, including high technology uses including research and development, that are employment intensive, clean and sustainable and that limit amenity impacts.

Encourage the highest concentration and mix of uses in the defined core areas, located on public transport nodes and routes.

Support big box retail development that compliments existing and planned retail uses in its catchment.

Ensure the social impacts of developments accommodating more than 100 dwellings are considered and addressed through the preparation of a Social Impact Assessment.

Support mid-rise buildings with landscaped frontage around the perimeter of Wirraway North open space.

Support the provision of tree lined streets, small parks, plazas and playgrounds, with easy walking and cycling access to Westgate Park and Sandridge Beach.

Support the development of the intersection of Plummer Street and Salmon Street as the heart of Wirraway and focus of activity with an engaging pedestrian experience along Plummer Street Boulevard.

Facilitate a key public transport spine and interchange node along Plummer Street to provide direct connections to Sandridge, the CBD, Docklands and the Fishermans Bend National Employment and Innovation Cluster with:

- The extension of the Southern Tram Route.
- Bus routes.
- The potential for an underground metro rail station at the junction with Salmon Street.

Support JL Murphy Reserve as a focus for active recreation with organised sports during the day and night.

Support the creation of new open space at Prohasky Reserve, and in Wirraway North (W1) and Wirraway East (W4), linked by green linear parkway and a network of smaller open spaces.

Support the delivery of new and upgraded bridges over the Westgate Freeway at Rocklea Drive, Salmon Street, Thackray Road and Graham Street that provide public transport, bike and pedestrian access to the Fishermans Bend Employment Precinct.

Support the delivery of the largest Arts and Cultural Hub in Fishermans Bend near the Southern Tram Route along Plummer Street in the 'investigation areas' shown on Map 2.

Support the delivery of an Education and Community Hub (secondary) and an Education and Community Hub (primary) in the 'investigation areas' shown on Map 2, close to open space and the tram route.

Support the delivery of a centrally located Health and Well-Being Hub within the 'investigation area' shown on Map 2.

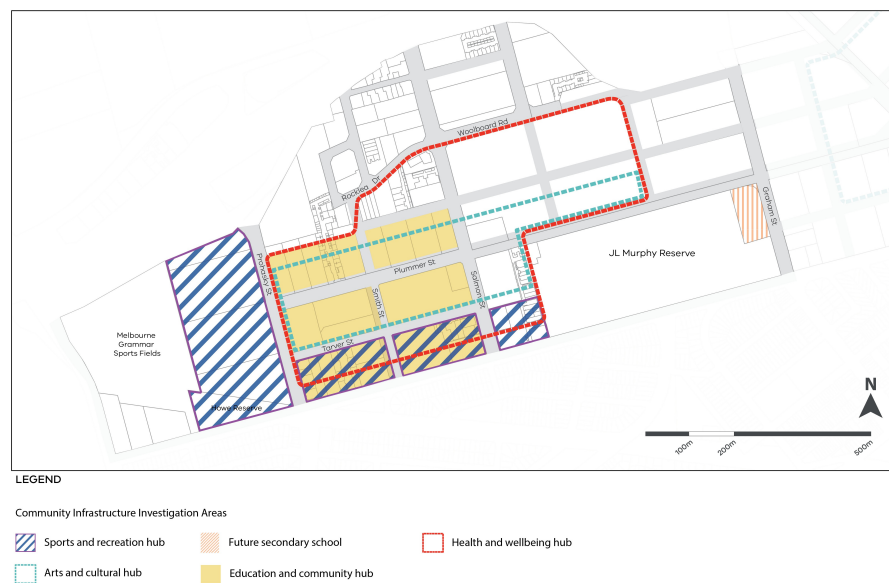
Support the delivery of a Sports and Recreation Hub within the 'investigation area' adjoining Williamstown Road shown on Map 2.

PORT PHILLIP PLANNING SCHEME

Map 1: Sub-precincts within the Wirraway precinct



Map 2: Community infrastructure investigation areas within the Wirraway precinct



PORT PHILLIP PLANNING SCHEME

13.07
26/05/2020
VC175

AMENITY, HUMAN HEALTH AND SAFETY

PORT PHILLIP PLANNING SCHEME

13.07-1S

03/03/2023
VC215

Land use compatibility

Objective

To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

Strategies

- Ensure that use or development of land is compatible with adjoining and nearby land uses
- Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.
- Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.
- Protect commercial, industrial and other employment generating uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively.

Policy documents

Consider as relevant:

- *Recommended separation distances for industrial residual air emissions* (Publication 1518, Environment Protection Authority, March 2013).

PORT PHILLIP PLANNING SCHEME

13.07-1L-01 Backpackers' accommodation

14/04/2023
C203port

Objectives

To maximise the economic benefits of backpacker tourism, through appropriately located backpackers' accommodation that are consistent with the City's established character.

To minimise off-site impacts generated by backpackers' accommodation.

Strategies

Locate backpackers' accommodation in areas:

- With convenient access to community and retail facilities and services.
- Outside residential zones.
- Along main roads and public transport routes.

Avoid the aggregation of backpackers' accommodation to reduce the cumulative impacts on residential amenity, parking availability, traffic congestion and urban character.

Policy guidelines

Consider as relevant:

- Locating communal areas (parking areas, swimming pools and barbecue areas) away from any residential zone boundary.
- Incorporating mitigation measures to reduce off-site noise impacts on adjacent residential areas.

Policy documents

Consider as relevant:

- *Backpackers' Lodges in the City of Port Phillip* (City of Port Phillip, March 2000)
- *Port Phillip Housing Strategy* (City of Port Phillip, 2007)

13.07-1L-02 Caretakers' houses

14/04/2023
C203port

Policy application

This policy applies to land in the Industrial 1, Industrial 3 and Commercial 2 zones.

Objective

To protect the primary industrial and commercial use of the land while supporting caretakers' houses where they are a necessary ancillary use.

Strategies

Ensure that caretakers' houses are designed to minimise amenity conflicts.

Avoid the subdivision of caretakers' houses from the primary industrial or commercial use operating on the land.

Policy guidelines

Consider as relevant:

- Limiting the total gross floor area of the caretakers' house to less than 30 per cent or up to 100 square metres, whichever is the lesser, of the building in which it is sited (excluding parking and loading bays).
- Providing a clear physical separation between the caretakers' house and the primary non-residential use within the building.

PORT PHILLIP PLANNING SCHEME

- Including noise attenuation measures to protect the occupant from onsite and offsite noises derived from commercial or industrial activities.
- Using Section 173 agreement to limit the occupancy of the caretakers' house to a supervisor of the primary use on the land.
- Limiting the provision of a caretaker's house to locations where it is appropriate to the scale of, and activities undertaken by, the primary industrial or commercial use operating on the land.
- Locating and designing the caretaker's house to mitigate any impacts on surrounding land uses within a 100 metre radius of the subject site.
- Designing the caretakers' house to respond to the existing conditions and features of the site.

Policy document

Consider as relevant:

- *Port Phillip Practice Notes Policy No. 15 – Caretaker's Dwellings* (City of Port Phillip, 2010)

13.07-1L-03 Interfaces and amenity

14/04/2023
C203port

Policy application

This policy applies to:

- Non-residential use and development.
- Residential use and development on land:
 - In a Mixed Use, Commercial 1 or Industrial 1 Zone.
 - In a Residential Zone within 30 metres of a Commercial 1 Zone.
 - On land adjacent to an industrial area, main road or rail line.

Objectives

To manage amenity conflicts between commercial, industrial and residential activities while maintaining the viability of commercial or industrial activities.

To minimise the detrimental impacts of non-residential uses on residential amenity.

To ensure that non-residential uses in residential zones are compatible with the surrounding residential context and serve the local community.

Non-residential use and development strategies

In residential zones, support the establishment of non-residential uses that will address local demand and provide local resident and community benefits.

Encourage non-residential uses in residential zones to locate:

- In buildings with a historic non-residential use.
- On corner sites that have direct access to a road in a Road Zone.
- On sites adjacent to the boundary of a non-residential zone.
- Close to public transport.

Ensure reasonable amenity for existing residential uses are maintained, including privacy, access to sunlight to existing habitable rooms and private open space, and adequate open space.

Address possible impacts on residential amenity from established and future non-residential uses through appropriate design and management measures that:

- Provide acoustic protection to adjoining residential properties.

PORT PHILLIP PLANNING SCHEME

- Minimise noise transmission within the building, including from machinery and ventilation systems, between floors or separate units and to adjoining residential properties.
- Minimise the opportunity for views from adjoining residential properties into the site, especially where the storage, preparation, business or industrial activity could present an unsightly appearance.
- Minimise the opportunity for light spill due to fixed or vehicular lights, outside the perimeter of the site and on to habitable room windows of nearby residential properties.

For new industrial use and development:

- Support new industrial uses in the Mixed Use Zone provided there are no adverse residential amenity impacts.
- Discourage industrial or warehouse uses with adverse amenity impacts on surrounding residential uses (including if the subject site is currently used for a dwelling), in activity centres and mixed use areas.
- Provide buffer distances between industrial and non-industrial land uses to minimise the potential for conflict.
- Ensure new industrial and commercial uses provide storage and loading facilities.
- Incorporate measures to minimise environmental impacts including air, water, noise and soil pollution in industrial use and development.
- Encourage all industrial uses to adopt Environmental Management Plans.

Establish how proposed uses respond to the existing conditions and features of the site including surrounding residential properties and public areas outside the site such as footpaths and open space.

Establish the scale of proposed uses, including total floor area, number of operators, hours of operation, practitioners, staff, seats, patrons and type of any liquor licence to be sought.

Non-residential use and development policy guidelines

Consider as relevant:

- Designing non-residential development adjacent to existing residential properties to:
 - Locate plant and other service infrastructure (including automatic garage doors) in discrete locations including screening from neighbouring properties, streets and laneways.
 - Include masonry wall construction rather than curtain walling or other similar construction.
 - Incorporate effective acoustic insulation in the building.
 - Have regard to the locations of existing doors, habitable room windows and open space areas.
 - Locate and design vehicle access, car parking, loading and unloading areas to minimise noise and traffic impacts on adjoining residential uses.
- Providing facilities and incorporating measures to manage any impacts associated with general rubbish, specialised wastes, bottle and other recyclable material storage and removal arrangements including hours of pick up would be managed.
- Providing appropriately managed storage and loading facilities for new industrial and commercial uses.
- Designing non-residential use and development to reduce the impact of any proposed plant equipment, external lighting, signage and landscaping associated with the proposed use.

PORT PHILLIP PLANNING SCHEME

Residential development strategy

Ensure new residential development incorporates measures to protect residents from unreasonable noise, fumes, vibration, light spillage, waste management and other likely disturbances, including from nearby business or industrial operations.

Residential development policy guideline

Consider as relevant:

- Designing residential development adjacent to existing commercial or industrial uses to:
 - Orient windows and ventilation systems away from existing and potential noise sources.
 - Locate noise-sensitive rooms (in particular, bedrooms) and private open space away from existing and potential noise sources.
 - Incorporate other measures such as acoustic fencing, landscaping and setbacks, where appropriate.

13.07-1L-04 Tourism, entertainment uses and licensed premises

14/04/2023
C203port

Objectives

To promote Port Phillip as a visitor and entertainment destination.

To minimise possible adverse impacts from tourism uses, entertainment uses and licenced premises on the amenity of surrounding land uses.

Strategies

Ensure all festivals and cultural events minimise adverse amenity impacts on the surrounding land use and the environment.

Site, design and manage tourism uses, entertainment uses and licensed premises to minimise their impacts on residential safety and amenity, including impacts from increased late night patronage, parking congestion and anti-social patron behaviour.

Avoid the concentration of late night tourism uses, entertainment uses and licensed premises where there are significant adverse cumulative impacts on the amenity of the surrounding area, including:

- Noise emitted from the premises.
- Noise and disturbance from patrons arriving at and departing the premises.
- Real and perceived impacts on community safety.
- Alcohol-related harm and anti-social behaviour in and around the premises.
- Littering, street fouling and vandalism.
- Congestion and noise from on-street over-flow parking or vehicles accessing off-street car parking.

Using Social Impact Assessments to establish positive social benefits to the community associated with new or expanded licensed premises.

Policy guidelines

Consider as relevant:

- The extent to which significant adverse cumulative impacts for entertainment uses operating after 10pm are prevented and addressed.
- The extent to which any new and expanded licenced premises would deliver a positive social benefit to the community.

PORT PHILLIP PLANNING SCHEME

13.07-2S

26/10/2018
VC152

Major hazard facilities

Objective

To minimise the potential for human and property exposure to risk from incidents that may occur at a major hazard facility and to ensure the ongoing viability of major hazard facilities.

Strategies

Ensure major hazard facilities are sited, designed and operated to minimise risk to surrounding communities and the environment.

Consider the risks associated with increasing the intensity of use and development within the threshold distance of an existing major hazard facility.

Apply appropriate threshold distances from sensitive land uses for new major hazard facilities and between major hazard facilities.

Protect registered or licenced major hazard facilities as defined under Regulation 5 of the Occupational Health and Safety Regulations 2017 from encroachment of sensitive land uses.

PORT PHILLIP PLANNING SCHEME

13.07-3S

28/09/2020
VC183

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.

13.07-3L

Proposed C220port

St Kilda Live Music Precinct

Policy application

This policy applies to an application subject to Schedule to Clause 53.06 (Live Music Entertainment Venues) and within the St Kilda Live Music Precinct as shown on the plan to this clause.

Objectives

To recognise the important social, cultural, and economic benefits that live music contributes to the local community and City.

To facilitate a thriving live music industry by supporting the retention, growth, concentration, and operation of live music entertainment venues in the core live music area of the Precinct.

To facilitate the economic development of the Precinct by supporting live music sector employment and investment opportunities and resolving land-use conflicts.

To facilitate the development of well-designed and accessible new live music entertainment venues while minimising and managing any potential adverse off-site operational and amenity impacts on the community.

Strategies

Locate and cluster new live music entertainment venues within the core live music area to support the live music role and function of the Precinct.

Consider, and where appropriate, support and manage a higher ambient sound environment within the core live music area.

Ensure the agent of change (whether a new live music entertainment venue or a new noise-sensitive residential use) minimises and manages the amenity impacts through land use separation, siting, building design and operational measures.

Promote a diversity of live music venues, including location, size, number of patrons and hours of operation to support different performance spaces and levels of activity.

Support the use of land for food and drink premises, nightclubs, function centres or residential hotels that include live music entertainment and also rehearsal studios, where a permit is required.

PORT PHILLIP PLANNING SCHEME

Protect existing live music entertainment venues from encroachment by use or development that would compromise the ability of the venues to function effectively.

Enhance the sense of place of the Precinct by ensuring development responds to its context in terms of cultural identity and local character.

New live music entertainment venues

Ensure new live music entertainment venues, as the agent of change, minimise off-site operational and amenity impacts on existing noise sensitive residential uses.

Ensure new live music entertainment venues locate noise generating activities, away from habitable rooms (and in particular, bedrooms) and private open space of existing noise sensitive residential uses and incorporate acoustic attenuation measures.

New noise sensitive residential uses

Ensure that new noise sensitive residential uses, as the agent of change, provide appropriate noise attenuation measures to minimise the impacts of existing live music entertainment venues and protect internal amenity.

Ensure new noise sensitive residential use and development locates habitable rooms (in particular, bedrooms) and private open space away from existing and potential noise sources.

Policy guidelines

New live music entertainment venues

Consider as relevant:

- The nature of the proposed use, including:
 - .. The hours of operation.
 - .. The patron and staff numbers.
 - .. The potential off-site amenity impacts associated with the proposed use, as well as how these impacts will be managed and mitigated.
- The current land use of the site and land use of adjoining properties.
- The location and layout of the existing/proposed building on the site, including the location of all external windows, doors, and car parking areas.
- Any existing noise sensitive residential use within 50 metres, including details of habitable room windows, balconies, and secluded private open spaces.
- The design and siting of new live music entertainment venues, including:
 - .. The location of entertainment rooms and spaces, stages, and loudspeakers.
 - .. The attenuation measures, such as acoustic glazing and insulation.
 - .. The use of setbacks and acoustic fencing.
 - .. The location of any proposed external lighting and signage associated with the proposed use.
 - .. Whether the site and facilities are accessible to all.

New noise sensitive residential uses

Consider as relevant:

- The nature of the proposed use.
- The current land use of the site and land use of adjoining properties.

PORT PHILLIP PLANNING SCHEME

- The location and layout of the existing/proposed buildings on the site, including the location of all external windows, doors, and car parking areas.
- Any existing live music entertainment venue within 50 metres, including details of habitable room windows, balconies, and secluded private open spaces.
- The design and siting of new noise sensitive residential development, including:
 - .. The orientation of windows and ventilation systems.
 - .. The location of habitable rooms (in particular bedrooms) and private open space.
 - .. The attenuation measures, such as acoustic glazing and insulation.
 - .. The use of setbacks and acoustic fencing.

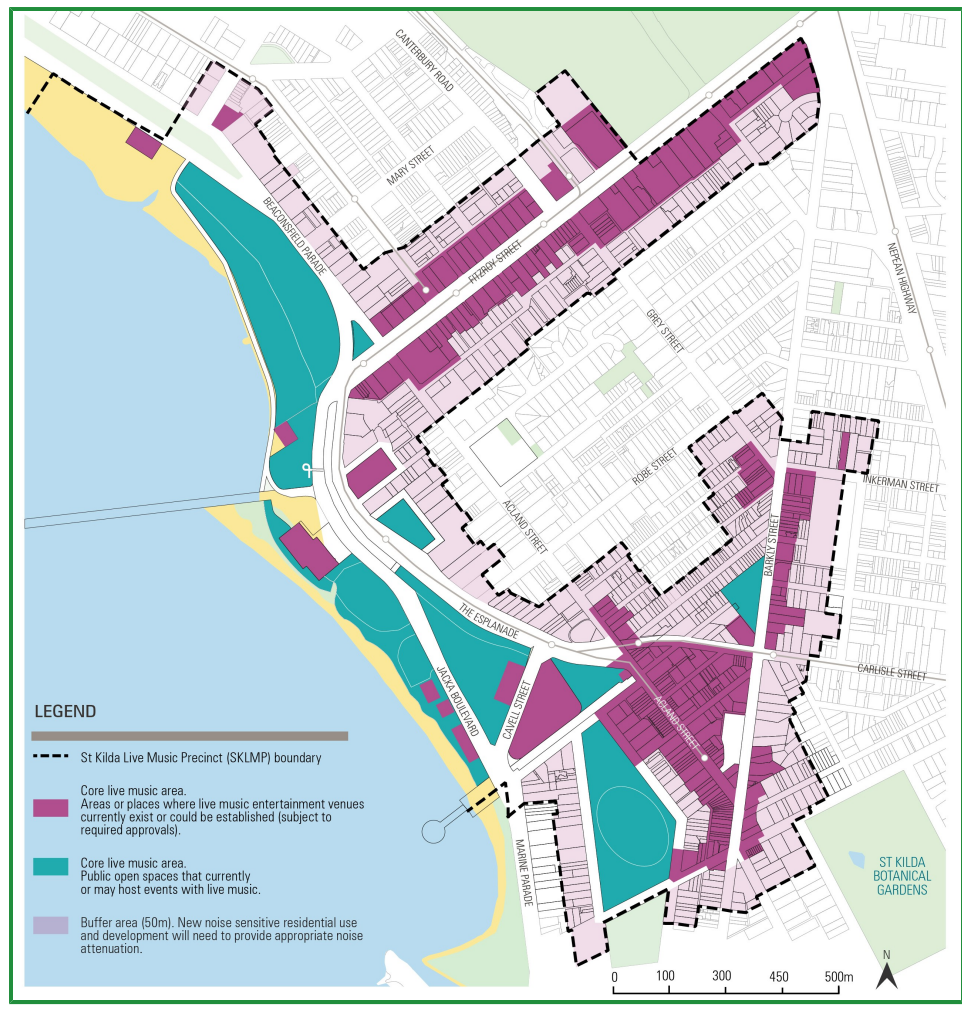
Policy documents

Consider as relevant:

- *St Kilda Live Music Precinct Policy* (City of Port Phillip, June 2023)
- *St Kilda Live Music Precinct Planning Study Report* (Hodyl & Co, Echelon Planning and Enfield Acoustics, July 2023)
- *St Kilda Live Music Precinct Planning Study Stage 2: detailed investigations & recommendations* (Hansen Partnership, March 2024)

PORT PHILLIP PLANNING SCHEME

St Kilda Live Music Precinct Plan



PORT PHILLIP PLANNING SCHEME

18/02/2021
GC175

SCHEDULE TO CLAUSE 53.06 LIVE MUSIC ENTERTAINMENT VENUES

1.0 Areas to which Clause 53.06 does apply

04/05/2022
VC240 Proposed C220port

Name of area	Description
None specified St Kilda Live Music Precinct	Refer to Clause 13.07-3L (St Kilda Live Music Precinct) and Clause 4 of this schedule for a plan of the declared SKLMP area.

2.0 Areas to which Clause 53.06 does not apply

04/05/2022
VC240 Proposed C220port

Name of area	Description
None specified	None specified

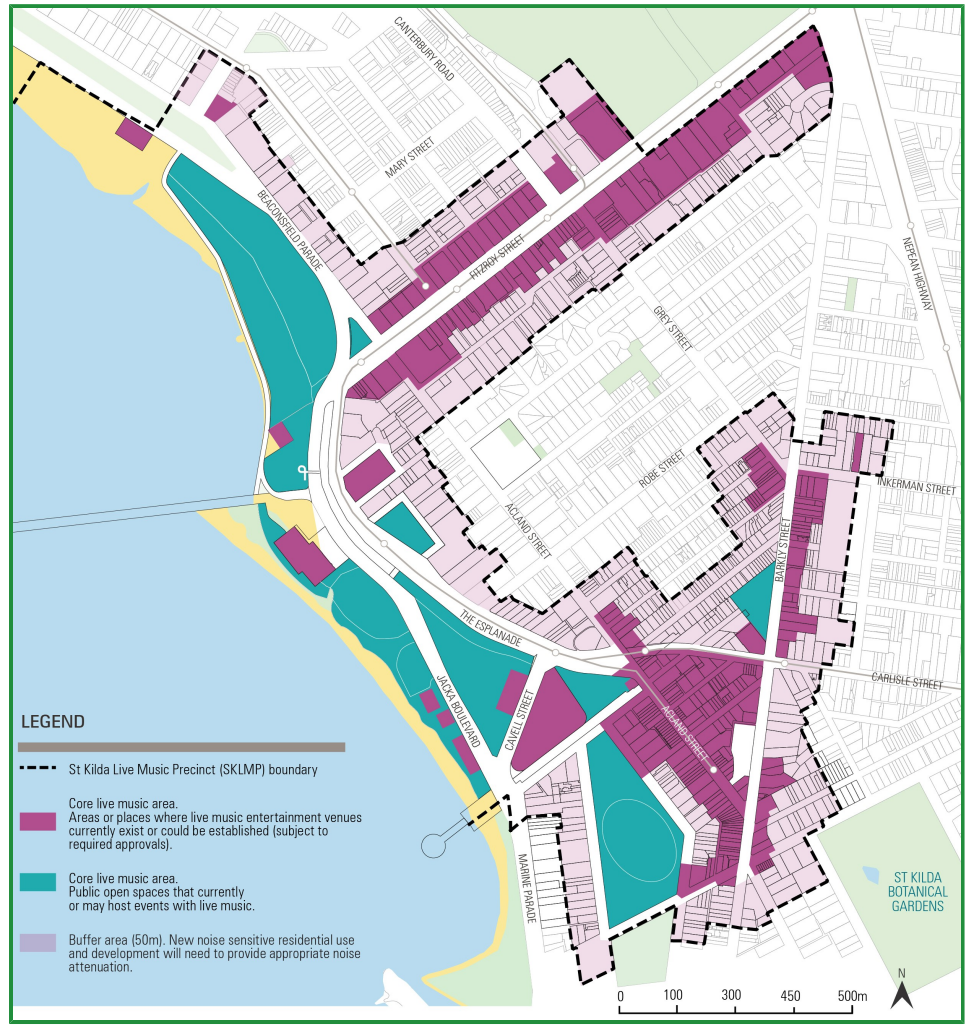
3.0 Other venues to which Clause 53.06 applies

04/05/2022
VC240 Proposed C220port

Name of venue	Address	Condition or limitation
None specified Theatreworks	14 Acland Street (cnr St Leonards Ave), St Kilda	None specified
Allan Eaton Studios	80 Inkerman Street, St Kilda	None specified
The Crest Hotel	47 Barkly Street, St Kilda	None specified
South Beach Reserve	Beaconsfield Parade, St Kilda	None specified
Catani Gardens	Beaconsfield Parade, St Kilda	None specified
Cleve Gardens	Beaconsfield Parade (cnr Fitzroy Street), St Kilda	None specified
Alfred Square	The Esplanade, St Kilda	None specified
St Kilda Triangle	Jacka Boulevard, St Kilda	None specified
O'Donnell Gardens	The Esplanade, St Kilda	None specified
Veg Out Community Gardens	Shakespeare Grove, St Kilda	None specified
Peanut Farm Reserve	Chaucer Street/ Spencer Street, St Kilda	None specified
J Talbot Reserve	Barkley Street, St Kilda	None specified
Linden New Arts	26 Acland Street, St Kilda	None specified
Christ Church/Community Centre	14 Acland Street, St Kilda	None specified
Sacred Heart Church	83 Grey Street, St Kilda	None specified

4.0 St Kilda Live Music Precinct Plan

PORT PHILLIP PLANNING SCHEME





11. SUSTAINABLE PORT PHILLIP

11.1	<i>Community Electric Vehicle (EV) Program.....</i>	467
------	---	-----

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



11.1 COMMUNITY ELECTRIC VEHICLE (EV) PROGRAM

EXECUTIVE MEMBER: BRIAN TEE, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT

PREPARED BY: SOWMYA NAGARAJ, SENIOR SUSTAINABILITY AND CLIMATE CHANGE OFFICER
BETH MCLACHLAN, HEAD OF SUSTAINABILITY AND CLIMATE CHANGE

1. PURPOSE

- 1.1 To consider the proposed next steps for the **Private** Kerbside Electric Vehicle (EV) Charger Pilot and **Public** Utility Pole-Mounted and Kerbside EV Charger Project.

2. EXECUTIVE SUMMARY

- 2.1 A significant portion of the Port Phillip community (~90%) are likely to face challenges installing charging infrastructure for electric vehicles (EV) as they reside in multi-unit dwellings and / or there is a lack of off-street parking.
- 2.2 A lack of accessible EV charging infrastructure prevents or postpones the decision to purchase an EV. Council has an opportunity to support the uptake of EVs by supporting the installation of charging infrastructure.
- 2.3 Development of a good public EV charging network will include a diverse range of charging models and technologies (i.e. a mix of slow and fast chargers) to meet various charging requirements. (section 4.5 & 4.6)
- 2.4 Council officers have been working on projects to support the community's transition to EVs and to incorporate multiple models of charging infrastructure (Section 4.8). The key actions include:
 - 2.4.1 Piloting installation of **private kerbside chargers** for residents with no off-street parking through a permit process.
 - 2.4.2 Investigating installation of **public utility pole-mounted and kerbside chargers** on on-street car parks.
 - 2.4.3 Exploring off-street car parks for installation of **public fast EV chargers**.
 - 2.4.4 Advocating private businesses and new developments to provide public charging infrastructure.
 - 2.4.5 Development of an EV Infrastructure Policy.
- 2.5 This paper considers,
 - 2.5.1 Council's **Private** Kerbside Electric Vehicle (EV) Charger Pilot and highlights the pilot's key outcomes, benefits, barriers, and the proposed next steps. The proposed recommendation is to discontinue the pilot project and cease accepting new permit applications.
 - 2.5.2 Considers on-street **Public** Utility Pole-Mounted and Kerbside EV Chargers and recommends their installation. These chargers are slow chargers, designed to offer charging solutions similar to home charging options and provide charging opportunities to residents in close proximity to their homes.



3. RECOMMENDATION

That Council:

- 3.1 Endorse the discontinuation of the **Private** Kerbside Electric Vehicle (EV) Charger Pilot and cease accepting new permit applications and will:
 - 3.1.1 Allow the installed kerb chargers to remain for a minimum 5 years, starting from the date of their installation subject to compliance with permit and other conditions.
 - 3.1.2 Undertake a review prior to the expiry of the 5 year permit period to determine if the kerb charger permits should be extended and, if yes, for how long.
- 3.2 Support the continued exploration and installation of on-street **Public** Utility Pole-Mounted and Kerbside EV Charger technology including using the following criteria to determine the locations for on-street EV Chargers:
 - 3.2.1 Prioritise street locations outside Permit Zones unless the Permit Zone street has no access to off-street parking and there is high demand for EV chargers.
 - 3.2.2 Consider safety implications in determining the location of on-street EV Chargers.
 - 3.2.3 Prioritise the spread of locations across the City of Port Phillip to provide access to EV charging across the municipality.
 - 3.2.4 Consider the outcome of community engagement with residents in the streets where on-street EV chargers are proposed to be installed.

4. KEY POINTS/ISSUES

4.1 Previous Council Notes, Briefings and Meetings

- **June 2018** – Council's *2018 Act and Adapt Sustainable Environment Strategy* committed to support uptake of EVs and explore installation of public charging stations in CoPP. (Action 21)
- **June 2021** - Council was briefed on updates of the overall EV program including release of an EOI to install public fast chargers and seek feedback on proposed Kerbside EV Charger Pilot.
- **September 2021** - Council endorsed the Kerbside EV Charger Pilot to permit up to ten residents with no off-street parking to install private kerb chargers. The resolution is below:
 - Council endorses a trial of a 'Kerb Charging Permit' for residents and businesses with no off-street parking to install electric vehicle chargers on Council land.
 - Council authorises the CEO or delegate to provide a 'Kerb Charging Permit' to up to ten properties on a rolling six months basis, up to a maximum permit period of 31 December 2023. At the conclusion of the first six months, the CEO will arrange for a review of the progress of the trial and report back to Council at the earliest possible opportunity to help shape future policy direction in this area.

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024

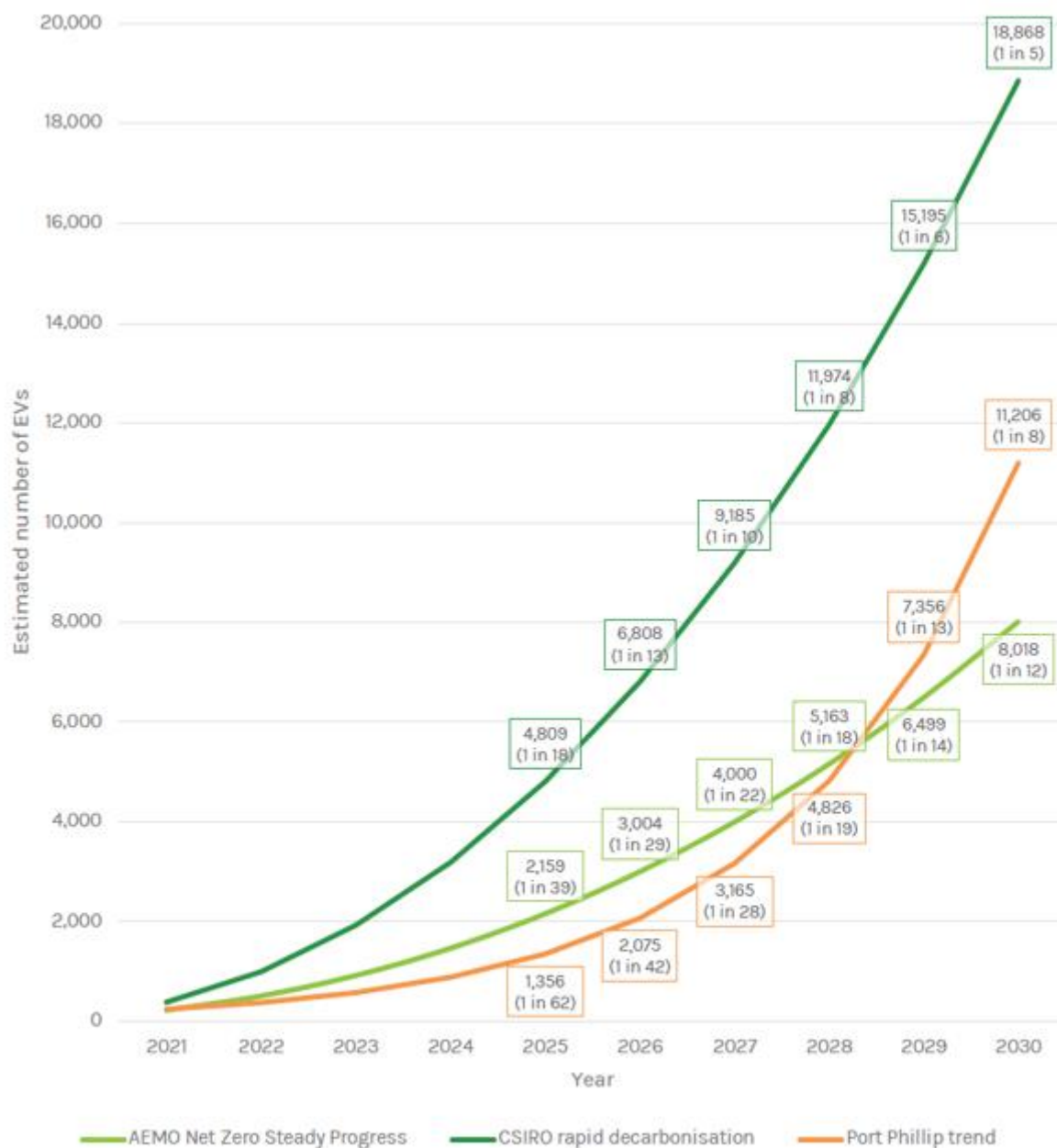


- Council endorses the Kerb Charging Facility Application Guidelines as outlined in Attachment 1 and delegates to the CEO the ability to make minor amendments to this document that do not alter its substantive intent, including reflecting any changes required as a result of this Council resolution, prior to publishing them.
 - Council notes the next steps associated with implementation and evaluation of the trial.
 - **November 2021** - Council was briefed on the Public Fast EV charging project and supported an agreement with preferred supplier EVIE Networks.
 - **June 2023** - Council was briefed on progress, barriers, and opportunities regarding the EV program.
 - **October & November 2023** – Councillors have been notified about the Utility pole mounted charger project via two separate Cr notes.
 - **November 2023** – Council endorsed the *Act and Adapt Sustainable Environment Strategy 2023-2028* and committed to support uptake of EVs and explore installation of public charging stations in CoPP. (Initiative 30)
 - **March 2024** – Council was briefed on the overall EV program and recommended next steps for the Private Kerbside Electric Vehicle (EV) Charger Pilot and Public Utility Pole-Mounted and Kerbside EV Charger Project.
- 4.2 Of Port Phillip's community greenhouse gas emissions, 13% comes from transport releasing 172,000 tons of CO₂ annually. 82% of dwellings in Port Phillip have at least one car. Vehicles powered by fossil fuels contribute significantly to urban air pollution which impacts human health.
- 4.3 Council's commitment in the *Act and Adapt Sustainable Environment Strategy 2023-28* is to 'accelerate support for the uptake of electric vehicles (EV) in the community by investigating, trialling and facilitating the installation of public charging stations, private charging infrastructure and removing barriers to charging infrastructure in new developments and existing buildings'. (Initiative 30)



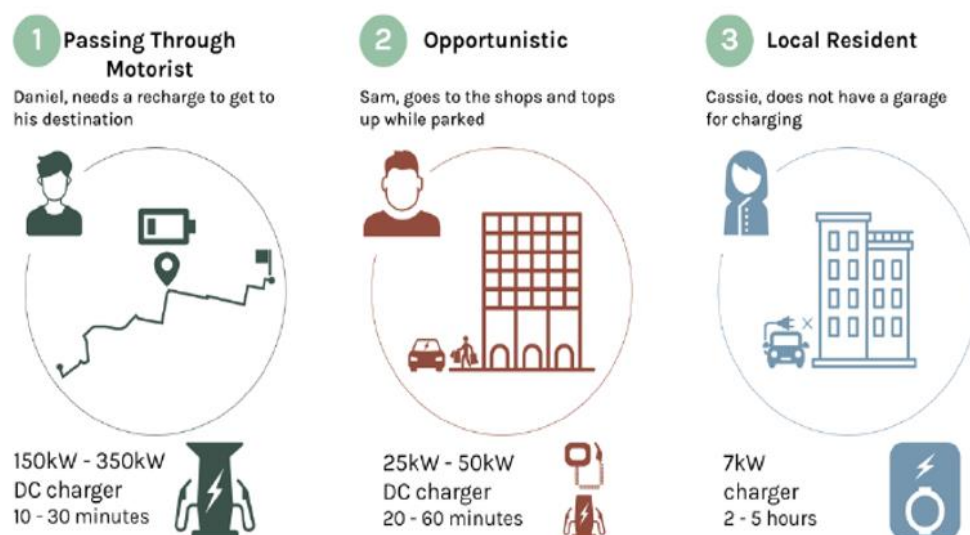
4.4 EV Charging Demand

Electric vehicle ownership is growing and the number of EVs registered in Port Phillip has almost doubled since 2019 with almost 340 EVs registered in 2022. Independent consultants estimate that there will be around 11,000 EVs in Port Phillip by 2030. The figure below indicates the forecasted EVs in Port Phillip by 2030. (source: *Institute of Sensible Transport 2023*)



Projected EVs in Port Phillip (Ref: Institute of Sensible Transport 2023)

- 4.5 Each region will require a mix of different EV charging models for different purposes. The below figure provides an overview of the various EV charging models and charging needs of an EV owner:



(Ref: Institute of Sensible Transport 2023)

- 4.5.1 Passing through motorist – EV owners requiring a quick charge as the priority is to reach their destination with minimum delays. Super and Ultra-fast chargers (150kW- 350kW) are preferred in these situations and EVs can be charged under 30 minutes. They are most suitable close to high volume arterial roads and motorways with abundant parking space and are often located around petrol stations, roadside amenities etc.
- 4.5.2 Opportunistic - EV owner travelling to a particular location (e.g., shopping centres, etc) and topping up their car battery while shopping. Fast chargers (25kW – 50kW) are usually located at off-street car parks near supermarkets, activity centres and shopping centres where EVs can be fully charged in an hour.
- 4.5.3 Local resident – EV owner will rely mostly on charging at home or work and, in the absence of an off-street carpark to install a home charger, will require a slow public charger (7kW – 11kW) usually on on-street car parks located close to their residence.
- 4.6 EV owners will move between the three different charging categories described above on different occasions. A good public EV charging network comprises of a diversity of charging models to enable strategic land use for installation of EV chargers and accommodate various charging needs of EV owners.
- 4.7 In Port Phillip, it is estimated that 90% of dwellings may have challenges charging EVs at their homes, due to limited off-street parking and access to infrastructure in multi-unit dwellings.
- 4.8 CoPP is investigating opportunities to include various types of charging infrastructure as described in section 4.5 to increase the EV charging options in the municipality, including:



4.8.1 **Private Kerbside Electric Vehicle (EV) Charger Pilot (~7kW)**

- Council endorsed the Private Kerbside EV Charger Pilot at its meeting of 1 September 2021. The pilot was designed to offer residents without off-street parking an opportunity to charge their EV outside their home using their own electricity. The pilot aimed to permit the installation of up to 10 kerbside charger units.
- The key highlights of the pilot are:
 - a. 50 Expressions of Interest were received, and 12 residents submitted applications which were assessed by Council from March 2022 to February 2024.
 - b. 2 applications were rejected due to their location within a flood zone and 10 applications were approved with permits issued.
 - c. A total of 8 installations of the kerb charger were completed between September 2022 and March 2024 and 2 are yet to be installed.
- The September 2021 Council resolution provided for a review of the pilot at the end of the six months i.e., in February 2022. While internal monitoring and review was ongoing, including a Councillor briefing in June 2023, overcoming technical requirements associated with the pilot detailed in this report relating to ownership of stranded assets on public land, insurance, legal and other Council risks delayed the issuing of permits and the review. Consequently, the first kerbside charger permit was not issued until October 2022 and, the tenth (final) permit was issued in February 2024 and is yet to be installed. Therefore, the formal review did not commence until February 2024 to allow for a fair understanding and assessment of the pilot outcomes.
- Council engaged the Institute of Sensible Transport (IST) to independently review the pilot. (Attachment 1)
- While the review recognised some benefits of the pilot, the overall recommendation was that 'the pilot cease accepting new applications and all resources be reallocated towards facilitating a public charging network.'
- The recommendation to cease permitting the installation of private kerbside chargers is based on the following:
 - a. The pilot guidelines and key requirements exclude a significant portion (over 90%) of the municipality in accessing this charging solution. For instance, multi-dwelling units, renters, and properties in flood overlays are not eligible to participate. This impacts scalability of this type of charging infrastructure across Port Phillip.
 - b. Use of limited officer time and resources to administer a complex project for a small percent (~7%) of eligible Port Phillip residents, when resources could be focussed on facilitating public charging infrastructure for the whole municipality.
 - c. Public spaces (car parks) are being utilised on an ad hoc basis to permit installation of private kerb chargers.



- d. Following discussions with Council's insurance broker (MAV), Council's insurance policy covers Council for any claims related to a kerb charger, however this doesn't extend to installations outside of the pilot. Further discussions and potential premium increase negotiations with MAV will be required to understand the insurance requirements beyond the pilot.
- e. Ownership status of the kerbcharger is ambiguous as the current arrangement assigns ownership and responsibility of the kerbcharger to the applicant via a permit condition. However, this doesn't apply when property is sold and poses issues for Council in managing legacy kerbchargers.
- f. There is currently only one supplier of the kerbcharger device (compliant equipment for the pilot), which has the potential to restrict market competition and can also pose potential uncertainties in resolving any future maintenance issues.
- g. The solution is for an individual household only, which excludes multiple users from using the same asset leading to low asset utilisation.
- h. While applicants can charge their EVs at low costs (standard residential electricity rates), they are subject to high capital costs to install the charger in front of their home.

4.8.2 **Public Utility Pole-Mounted and Kerbside EV Charger Project (11kW – 22kW)**

- Utility pole chargers are installed on existing street power poles and are generally located adjacent to on-street parking spaces. They can provide single or dual charging ports depending on the type of technology.
- Kerbside chargers are installed close to an existing utility pole on the nature strip/ footpath. The electricity supply is obtained from the utility pole either via underground or overhead connection point.
- These are slow chargers taking anywhere between 2 - 5 hours to obtain a full charge in comparison to around 1 hour or less with a fast charger.
- EV owners can charge their EVs for a fee (via a phone app) by parking at a parking space next to the nominated pole or kerbside charger.
- These technologies can play a significant role especially in medium – high density residential areas where most properties don't have capacity to install private chargers.
- Pole-Mounted chargers also sit a few metres off the ground and, meaning there is less likelihood of flooding associated risks and challenges.

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



*Intellihub's Power pole charger in NSW
(ARENA Trial Project)*



*EVX's Pole mounted charging technology - Dual
charging ports which allows for charging of two EVs
from the same pole.*



*Kerbside (off pole) charger with both
single and dual charge ports*

- Several cities (London, Oslo, Amsterdam, etc) have, for over a decade, managed the provision of kerbside and/ utility pole-mounted public chargers for households that are unable to charge at their residence.
- In the Australian context, on-street utility pole-mounted chargers have been implemented across 9 Council areas in NSW providing charging for residents with no off-street parking via the Australian Renewable Energy Agency (ARENA) funded trial.
- Council is working with Intellihub, who were awarded a grant of \$1.35M by the Victorian Government's Zero Emissions Vehicle Emerging Technologies (ZEVET) program to install 100 EV chargers mounted on power poles across three inner city local government areas, including City of Port Phillip. This program was due to be completed by end of 2024.
- Council is also working with EVX Australia Pty Ltd to investigate pole-mounted chargers.
- Officers have developed the following criteria to determine on-street parking locations for installation of utility pole-mounted or kerbside EV charging infrastructure:
 - a. Prioritise streets outside Permit Zones unless the Permit Zone street has no access to off-street parking and there is high demand for EV chargers.



- b. Consider safety implications in determining the location of on-street EV Chargers.
- c. Prioritise the spread of locations across the City of Port Phillip to provide access to EV charging across the municipality.
- d. Consider the outcome of community engagement with residents in the streets where on-street EV chargers are proposed to be installed.
- Following community engagement around 50 sites have been identified across the municipality to provide an equitable spread of EV charging infrastructure in CoPP. These sites will be shared with providers for further technical investigation. It is estimated that of the 50 sites around 30 will meet the feasibility requirements.

4.8.3 **Public Fast EV Charging Infrastructure Project (50kW -120 kW)**

- In November 2021, Council supported an agreement with a preferred supplier of EV charging (EVIE Networks) to install public 'fast' charging infrastructure at no cost to Council. This project focused on identifying sites in off-street car parks to allow the community to charge their vehicle.
- Council off-street car parks have been explored and challenges such as flooding risk and upcoming redevelopment have been identified for several locations. Officers are continuing to explore viable sites and working through these challenges with EVIE Networks.
- Crown land off-street car parks were investigated initially and eliminated due to issues around leasing challenges, flood overlays and inadequate power supply. Discussions with EVIE Networks in early February 2024 confirmed that the restrictions associated with lease agreements on Crown land have been resolved and therefore, this opportunity is being revisited.

4.8.4 **EV Infrastructure Policy Development**

- Officers are developing a draft Electric Vehicle (EV) Policy. The policy seeks to identify and clarify Council's role in the roll out of EV charging infrastructure to support the uptake of EVs in the community.

5. **CONSULTATION AND STAKEHOLDERS**

Each Community EV Program project has involved project specific engagement with relevant stakeholders:

5.1 **Private Kerbside Electric Vehicle (EV) Charger Pilot**

Officers have:

- 5.1.1 updated the webpage ([Electric vehicles - City of Port Phillip](#)) regularly to include the key messages and latest information regarding the pilot.
- 5.1.2 communicated the eligibility requirements, application process and timeframes for permit decisions to the community (including applicants) and the supplier of the Kerb Charger technology.
- 5.1.3 provided information in response to enquiries from residents regarding the pilot.
- 5.1.4 continued discussions with MAV to resolve insurance related matters and agreed a model that is acceptable for the period of pilot. (see section 4.8.1)

MEETING OF THE PORT PHILLIP CITY COUNCIL 1 MAY 2024



5.1.5 obtained legal advice on ownership concerns regarding a private asset on public land and other risks associated with the pilot. (see section 4.8.1)

5.2 **Public Utility Pole-Mounted and Kerbside EV Charger Project**

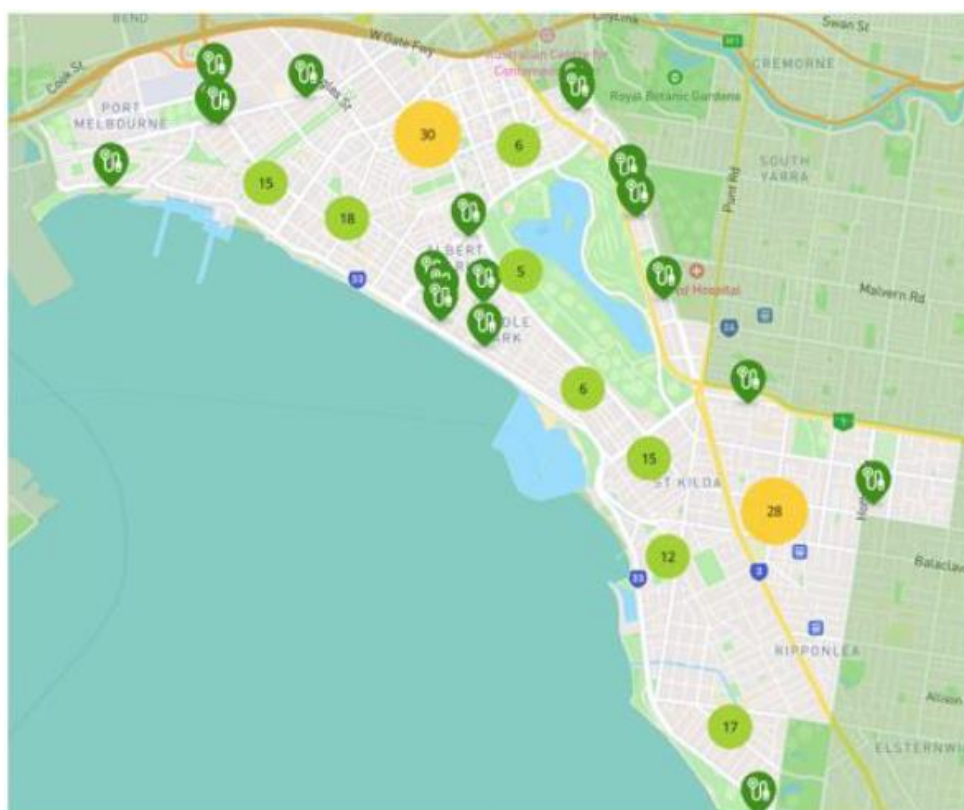
5.2.1 Officers continue to engage with Councils in NSW that participated in their Utility Pole-Mounted Charger Trial to consider key learnings and feedback from community and other key stakeholders.

5.2.2 Officers have:

- Had regular internal engagement to finalise locations, parking restrictions and signage requirements.
- Had ongoing discussions with charging technology providers Intellihub and EVX to identify opportunities.
- Advocated to regulatory authorities and State government departments (DECCA) to enable faster resolution of issues.

5.2.3 In November/December 2023 Council undertook Community consultation via our 'Have your say' webpage to seek suggestions on the locations of utility pole-mounted EV chargers. (Attachment 2).

5.2.4 Council heard from 89 contributors from most suburbs in Port Phillip. Most contributions were from Port Melbourne, St. Kilda and South Melbourne. 173 locations were suggested and 51% of respondents suggested more than one location. (see below figure)



Community consultation feedback on potential charging locations in CoPP



5.3 Public Fast EV Charging Infrastructure Project

Officers have had:

- 5.3.1 Regular internal engagements with key teams to identify opportunities, risks, future plans of potential sites for public EV charging.
- 5.3.2 Ongoing discussions and advocacy to Melbourne Water and State Government (DECCA) regarding flood impact, risks, safety and regulations associated with EV chargers.
- 5.3.3 Discussions with EVIE Networks (preferred supplier) regarding potential opportunities and learnings.
- 5.3.4 Investigated private partnership opportunities with Ampol, Coles, etc to facilitate public EV charging with no positive response.

6. **LEGAL AND RISK IMPLICATIONS**

- 6.1 Legal and risk implications to Council if the Kerbside EV Charger Pilot continues beyond the pilot are listed below:
 - 6.1.1 Council resources will not be sufficiently focused on delivering public charging network for the Port Phillip community due to the time, efforts, and complexity of the private kerbcharger installation project that meets demands of only around 7% of the community.
 - 6.1.2 Challenges with future street planning and competition for parking spaces will need to be managed.
 - 6.1.3 Insurance requirements remain unclear for new installations beyond the pilot which increases Council's risk exposure.
 - 6.1.4 Uncertain ownership arrangements of kerbchargers suggest compliance, responsibility and legacy issues will remain a challenge.
 - 6.1.5 Ambiguity regarding who is responsible (Council/ Kerbcharge provider) to register with Dial Before You Dig post installation of chargers is still unresolved.

7. **FINANCIAL IMPACT**

7.1 Private Kerbside Electric Vehicle (EV) Charger Pilot

- 7.1.1 The project does not require any capital investment from Council, however, there is significant requirement of officer time in delivering this project as well as minor legal counsel costs.

7.2 Public Utility Pole-Mounted and Kerbside EV Charger Project

- 7.2.1 There will be no capital costs to Council to install, operate and maintain the proposed public charging infrastructure. These costs will be managed by the provider of the technology.
- 7.2.2 Council's EV program has budget allocated to accommodate costs associated with community engagement activities and changes to parking (signage installation, line marking etc).

7.3 Public Fast EV Charging Infrastructure Project

- 7.3.1 There are no capital costs to Council to install, operate and maintain the proposed public charging infrastructure.



7.3.2 Council's EV Program's budget will cover costs for legal advice, electricity distribution network fees and other minor infrastructure upgrades.

8. ENVIRONMENTAL IMPACT

8.1 Lower community greenhouse gas emissions and improved air quality through transition to EVs.

9. COMMUNITY IMPACT

9.1 The Community Electric Vehicle Charging Program responds to demands of our community to support their uptake of EVs and seeks to provide convenient charging opportunities.

9.2 Public EV charging can contribute to improved economic activity for businesses around the vicinity of charging locations as the EV owners are likely to visit a nearby café, supermarket, etc while charging their EV.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

10.1 Community Electric Vehicle Program aligns with Strategic Action 3 – Sustainable Port Phillip of the adopted Council Plan 2012-31.

10.2 The *Act and Adapt Strategy*, adopted in 2018 and reviewed in 2023 includes commitments to support uptake of EVs and explore installation of public charging stations in CoPP.

10.3 The Council Plan 2021-31 includes a Community Electric Vehicle Charging Program operating project to facilitate uptake of electric vehicle ownership. This action supports the Council and Victorian Government targets to achieve net zero community emissions by 2050.

10.4 *Move, Connect, Live* Action 42 say that Council will 'Support the use of electric vehicles through a variety of measures including the investigation of options to use the planning scheme to facilitate electric vehicle charging infrastructure in new developments'.

11. IMPLEMENTATION STRATEGY

TIMELINE

11.1 Private Kerbside Electric Vehicle (EV) Charger Pilot

11.1.1 If the recommendation to not proceed with the private Kerbside EV Charger Pilot is adopted the installation of private EV infrastructure on Council land will cease at the end of the pilot. This means Council would not expand this pilot to become a broader program and will cease accepting new permit applications going forward.

11.1.2 Currently, the kerb chargers have permits valid for a period of 1 year. Below are proposed next steps for the management of existing kerb chargers permitted in the pilot.

- Allow the kerb chargers installed to remain for a minimum period of 5 years starting from the date of their installation.
- Council will issue a Street Occupation Permit (\$106 + cpi p.a.) for the remainder of their 5 year permit period to each of the pilot participants.
- Council will undertake a review prior to the expiry of the 5 year permit period to consider:



- a. The level of available alternative public charging infrastructure in the municipality (specifically in the vicinity of the existing kerbside chargers)
- b. Ensure Council's insurance coverage remains valid.
- c. Any risks such as flood overlays that impact the kerb charger locations based on updated flood mapping made available during the validity period of the permit.
- d. Compliance of all terms and conditions by the permit holder that are detailed in the Permits issued by Council.
- e. If the property has been sold or if the owner does not want to continue with the permit.
- The above criteria will inform the decision to renew or not renew the permit. If decision is made to not renew the permit, the removal of the kerbcharger will be required in accordance with the terms and conditions in the Street Occupation Permit.

11.2 **Public** Utility Pole-Mounted and Kerbside EV Charger Project

11.2.1 The proposed approach for this program.

- Shortlisted and approved sites (seeking an equitable spread across the municipality) will be shared with providers to undertake technical feasibility in April - May 2024.
- Progressing the nominated locations would be informed by feedback from the impacted community via a community engagement undertaken in the affected streets / locale between June – September 2024.
- An acceptance rate of 51% of those who provided feedback will be required with a minimum 10% response rate for it to be a valid survey. This is consistent with Council's protocol for changes to on-street parking conditions.

11.3 COMMUNICATION

11.3.1 Kerbside **Private** EV Charger Pilot – Officers will communicate and assist in enquiries regarding the Council decision of the outcome of the pilot and next steps to the community and each applicant / permit holder.

11.3.2 Utility Pole-Mounted and Kerbside **Public** Charging Project – Another community engagement phase for this project will take place after finalising locations for EV chargers. This will involve a letter drop to residents and businesses in the vicinity of the nominated EV charger locations.

12. OFFICER MATERIAL OR GENERAL INTEREST

12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

ATTACHMENTS

1. Kerbside EV charger independent review 
2. Community consultation summary 



Kerbside Charger Review - Final

Prepared for Port Phillip City Council 2024



The Institute for Sensible Transport acknowledges the people of the Wurundjeri Woi Wurrung language group of the eastern Kulin Nation on whose unceded lands we work.

We respectfully acknowledge their Ancestors and Elders, past and present.

We also acknowledge the Traditional Custodians and their Ancestors of the lands and waters across Australia where we conduct our business.

Institute for Sensible Transport
ABN 78 504 466 884
202/26-30 Rokeby Street, Collingwood,
Melbourne, Australia VIC 3066
E: info@sensibletransport.org.au
www.sensibletransport.org.au

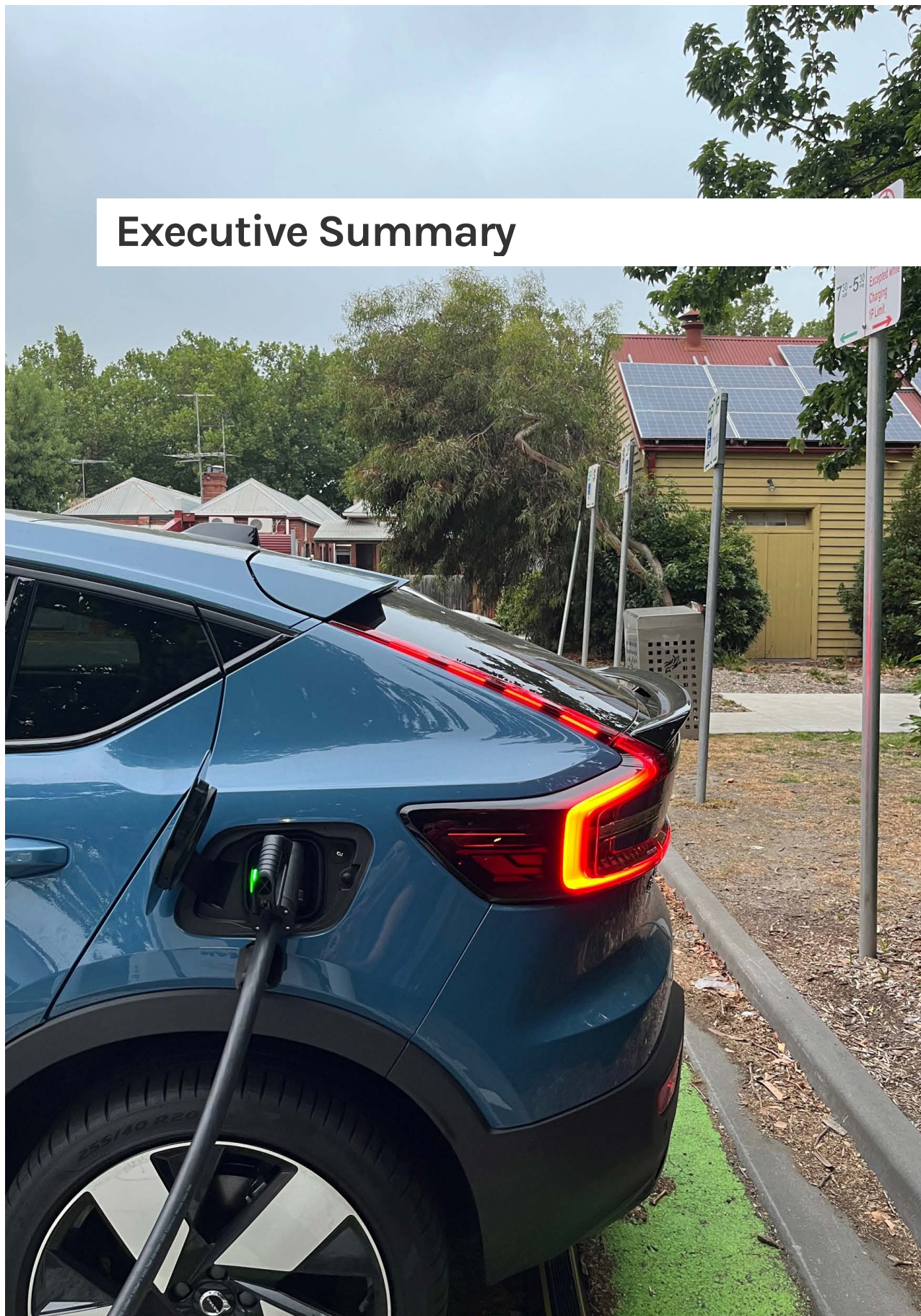
Contents

Executive Summary.....	4
1. Introduction and background.....	6
1.1 What does this report do?	7
2. Kerbside charger Pilot: An overview.....	8
2.1 Our approach.....	9
2.2 Kerbside charger Pilot – an introduction.....	9
2.3 Council meeting discussing the Kerbside Pilot.....	10
3. Analysis of strengths, weaknesses, opportunities and threats.....	13
3.1 Benefits of the Pilot.....	14
3.2 Limitations of the Pilot.....	15
3.3 Potential to increase scale.....	16
4. Recommendations	19
4.1 Recommendation for future of the Pilot	20
4.2 Plan for legacy installs.....	20
4.3 Next steps.....	21
5. Appendix 1 Council meeting.....	22

List of figures

Figure 1 Kerbside EV charger for private use, with the provider Rod Walker of Kerb Charge.....	9
Figure 2 SWOT Analysis of the kerbside Pilot	14
Figure 3 Areas liable to flooding in the City of Port Phillip.....	15
Figure 4 Growth of EV ownership among Port Phillip residents.....	17
Figure 5 Projected EVs in Port Phillip, 2021 to 2030.....	17

Executive Summary



The purpose of this report is to assess the performance of the Kerbside Electric Vehicle (EV) charger Pilot and provide advice on the future of this Pilot. In mid-2021, the City of Port Phillip established a Kerbside Charger Pilot, as a way of offering residents living in single dwelling houses without off street parking the opportunity to connect a kerbside EV charger to their domestic power supply. To the authors knowledge, this is the first example of such a program.

Electric vehicle ownership is growing and much of Port Phillip's housing lack charging potential

Electric vehicle ownership is rising rapidly in Australia. In 2023, ~8% of new vehicles sold in Australia were EVs. These vehicles require charging, and this is most commonly undertaken in the driveway/garage of a person's dwelling. The majority of homes in Port Phillip do not have easy access to charging. As more people in Port Phillip seek to transition to an EV, a growing need to find effective solutions for this significant cohort of the Port Phillip community has become clear.

Anecdotally, some Port Phillip residents with EVs are reporting travelling to adjoining municipalities to access their charging network, and spend while charging. This has the potential to negatively impact businesses in Port Phillip.

As more people in Port Phillip seek to transition to an EV, a growing need to find effective solutions for those without a private garage has become clear.

Kerbside charging Pilot

While well intentioned, innovative and supporting a small number of households to charge directly outside their home, the program has failed in a number of important areas. It has failed to:

- Provide a cost effective solution to residents, compared to more conventional public charging opportunities;
- Scale to meet sharply rising demand for EVs;
- Cover the large number of people (~90% of the residents of Port Phillip) who do not meet the Pilot's inclusion criteria;
- Use staff time effectively. The high administrative and compliance burden of the system is not justified, based on the number of installs that have been achieved. This has also detracted the attention of staff to develop a public charging network.

Ultimately, the clear lesson from this Pilot is that installing a private electrical asset, exclusively for private use, on public land is both highly unusual and inordinately complex. This may explain why no other jurisdiction has attempted such a program.

The future Pilot was subject to Council meeting on the 1st September, 2021. During this meeting, it was apparent that there was significant ambiguity and divergent views on key aspects of the Pilot. Specifically, there was confusion among participants of the meeting as to who would bear the cost of purchase and installation of the first five Kerb Charge devices during the trial.

Cities that have been able to achieve a greater number of charging opportunities for residents have generally opted for public chargers. These chargers, which are either slow chargers (intended for long stay parking), or faster chargers in shorter duration bays, have achieved greater success at building a charging network. Importantly, these cities have been able to achieve better outcomes for residents, at lower staff costs, per charger. As public chargers, each plug may support up to 10 charging sessions per day, helping to service a much greater number of people.



1. Introduction and background



The City of Port Phillip understands the importance of supporting the community's transition to low carbon transport. The provision of electric vehicle charging is a critical element in this transition.

Approximately 12% of Port Phillip's community greenhouse gas emissions are generated by automotive transport, releasing 172,000 tonnes of CO₂ annually. Vehicles powered by fossil fuels also contribute significantly to urban air pollution, which impacts human health.

Although 70% of Port Phillip households own at least one car, approximately 90% of households are classified as medium to high density. Many properties in Port Phillip do not have off-street parking and/or the capacity to retrofit EV chargers and are unable to install EV charging infrastructure within their properties. The majority of dwellings in Port Phillip are flats and apartments, at 71% of dwellings. Around 21% of dwellings are semi-detached, according to the 2021 Census.

A lack of EV charging infrastructure prevents or postpones the decision to purchase an electric vehicle.¹ Council

is committed to supporting the uptake of EVs through facilitating the installation of charging infrastructure.

In mid-2021, the City of Port Phillip established a Kerbside EV Charger Pilot, as a way of offering residents living in freestanding housing without off street parking the opportunity to connect a kerbside charger to their domestic power supply. This report reviews this Pilot.

1.1 What does this report do?

This report is focused on reviewing the kerbside charging Pilot and provides an independent and balanced review of the Pilot project including:

- The Pilot's successes, limitations and barriers.
- Assessment of potential for larger scale rollout and a recommendation for its continuation (and in what form) or cessation.

This report is designed to assist Council determine the future of the kerbside charging Pilot.

This project is important because a lack of easy access chargers is holding back the community's transition to cleaner transport.

¹ <https://electricvehiclecouncil.com.au/wp-content/uploads/2021/10/2021-EVC-carsales-Consumer-attitudes-survey-web.pdf>



2. Kerbside charger Pilot: An overview



This section provides an overview of the kerbside EV charger Pilot, its benefits, limitations and potential for increasing its scale.

2.1 Our approach

A series of activities were undertaken by the authors to gain a strong understanding of the benefits and limitations of the kerbside EV charger pilot. This process involved:

- An analysis of housing typology in Port Phillip, to better understand how many households are likely to require charging infrastructure in the public domain.
- A desktop review of Council processes associated with the administration of the kerbside charging Pilot.
- Interviews with Council staff involved in the Pilot.
- A review of practices employed by other councils to provide access to charging, for those not able to charge an EV on their property.
- Interviews with households that had installed a kerbside charger to understand what they liked about the Pilot and what could be done to improve charger access in the future.

The above process will enable an assessment of the kerbside EV charger pilot in terms of its:

- Benefits/successes
- Limitations
- Barriers
- Potential for increasing its scale.

2.2 Kerbside charger Pilot – an introduction

A kerbside charging Pilot project was launched by Council in mid-2021. The Pilot was designed to offer residents of freestanding (either separated or semi-detached) homes in the City of Port Phillip without off street parking an opportunity to charge their EV outside their home using their own electricity.

Under the Pilot, residents and businesses² who do not have access to off-street parking may apply to install a conduit running under the footpath, to an outlet near the kerb. This connects a charging unit installed on the private property (and connected to the properties electricity supply) to their vehicle via the conduit and kerbside outlet.

Residents pay around \$7,000 to have a charger placed outside their home on the kerbside, for their exclusive use. Some installations have cost more than \$7,000 due to more complex electrical work, such as the upgrade of switch boards. Ten applications have been approved for installation as part of this program.

Residents pay around \$7,000 to have a charger placed outside their home on the kerbside, for their exclusive use. Ten applications have been approved for installation as part of this program.



Figure 1 Kerbside EV charger for private use, with the provider Rod Walker of Kerb Charge

Source: City of Port Phillip

² Businesses were eligible under the trial, although no expressions of interest or applications were received from a business.

2.2.1 Criteria

The following criteria are used to exclude applicants that have a property not considered suitable for the kerbside EV charger Pilot:

- Applicants for properties which are part of a multi-property development are **ineligible**. This includes all properties with an Owners Corporation.
- Applicants who have access to off-street parking on their premise are **ineligible**.
- Applications for any installations on the following roads will be **declined**:
 - Declared Roads – map available here <https://www.vicroads.vic.gov.au/traffic-and-road-use/road-network-and-performance/maps-of-declared-roads>
 - Roads with tramways,
 - Roads with cycle lanes between the footpath and car parking, or
 - Strategic Cycling Corridors – map available here <https://dtp.vic.gov.au/getting-around/walking-and-cycling/strategic-cycling-corridors>.
- Applicants whose property is subject to a Special Building Overlay (which are Melbourne Water flood zones) are **ineligible**.
- Applicants whose property is subject to a Heritage Overlay are **liable for an additional \$200** permit application fee.
- Can only be installed into a parking space the applicant can park in without restriction. Parking spaces must have either unlimited duration of stay, or the resident must be eligible for a residential parking permit. The parking space must not be subject to parking fees. Applicants who do not have the right to park in front of their property without restriction are **ineligible**.
- The footpath adjacent to the property must be at least 1.8 metres wide. Applications for installations in footpaths below this width are **ineligible**.

The Pilot guidelines stipulate the maximum dimensions, and operational features of devices.

These stipulations limit residents to only one supplier; *Kerb Charge*, which is the only compliant device available in the Australian market, and to our knowledge, worldwide. The device itself, is also used in illustrations in the Pilot guidelines document.

The Pilot has limited residents to only one device, *Kerb Charge*, which is the only compliant device available in the Australian market.

The Pilot guidelines placed restrictions on who can apply, as identified in Section 2.2.1. This notably excluded those who live in multi-dwelling properties, and those who have off-street parking. It also placed restrictions on where units can be installed (placing exclusion buffers around many footpath and street elements).

The Pilot guidelines excluded those who live in multi-dwellings.

2.3 Council meeting discussing the Kerbside Pilot

The ‘Community Electric Vehicle Charging Permit’ Trial³ was discussed at the 1 September 2021 Council meeting. Council received submissions from three individuals, including Rod Walker, the designer of the *Kerb Charge* device. Mr Walker described it as ‘*the first personal rather than public on-street electric vehicle charging*’ facility. Mr Walker further stated that he had been informed it was unique and ‘*quite probably the first anywhere [worldwide]*’. Mr Walker suggested that the length of the trial, being two years, and the maximum of five residents, as both having the potential to delay EV adoption in Port Phillip. Mr Walker said that he would install the equipment for free for the trial

³ In 2021 the kerbside charger program was known as a trial, but has subsequently been termed a Pilot.

period. According to statements by Mr Walker, after the trial, residents can elect to keep for half price, or have the equipment removed at *Kerb Charge's* cost (this appears to be based on an assumption the trial would convert to a permanent program).

It was clear during the Council meeting that there was significant ambiguity and divergent views as to who would bear the cost of purchase and installation of the first five *Kerb Charge* devices during the trial.

Review of the transcript of the Council meeting reveals that there was significant ambiguity and divergent views as to who would bear the cost of purchase and installation of the first five Kerb Charge devices during the trial. Our analysis of the video of the meeting shows that Councillors spoke to the motion with the understanding that Mr Walker would provide the *Kerb Charge* units installed under the trial at no cost to the residents. Council officers spoke with the understanding that this was a commercial negotiation between residents and the supplier, and should not affect the design of the trial. Put simply, Councillors were of the understanding there would be no cost to residents, while Council staff considered the cost to be determined via a negotiation between Kerb Charge and the resident. A timestamped transcript of the relevant passages is shown in Appendix 1.

To summarise debate during meeting, Councillors discussed the following items related to the Trial:

- The length of the Trial. Council officers stated that two-year timeframe was chosen due to costs incurred by residents. The cost of install and equipment is comparable to that of fuel over two years. Council officers suggested that it would be \$4,000 to \$5,000 per install, if the residents were expected to pay costs.
- It was stated that the Trial would end on 31 December 2023. At the end of the Trial the permits would expire, and residents would be required to remove equipment if the Trial were not continued as an ongoing process. Council did

not have a position on refunds for early termination of the Trial.

- The time between application and installation. The Council officer suggested that they expected it to take between two and three months from application to installation.
- When asked why five was chosen, the Council officer responded that it was felt to be high enough to provide good data.
- One Councillor asked about the sense of entitlement which may arise to park in the bay in which the charger is positioned (anyone can park in the bay but only the householder who has installed the charger can charge their vehicle). Council officers responded that the guidelines make it clear that there are no additional rights (i.e., no exclusive use of the parking bay).
- Councillor Cunsolo suggested increasing the number as 27 people had shown interest. The Council officer responded that the only risk was that this equipment may not be wanted in the public realm. Mr Walker suggested he would provide for up to five. Councillor Pearl moved an amendment to increase the number from five to ten. Councillor Cunsolo seconded the motion. This was justified due to perceived demand and to better understand community attitudes and desires.
- Councillors spoke on an understanding that Mr Walker would not charge up-front costs to the first five residents. This was based on statements he gave earlier in the meeting, discussed above.

Under the Pilot, the City of Port Phillip charges \$124 for a permit application; \$100 per year to retain the permit; and a \$500 bond. Despite Officers' estimations of installation costs of between \$4,000 to \$5,000, the installation of equipment cost has been reported as around \$7,000. Over a ten-year period (with 0% discount rate) the annual cost is approx. \$812, excluding electricity use, maintenance and insurance.

Over a ten-year period the annual cost is approx. \$812, excluding use costs.

Box 1 provides a summary of the key numbers related to the kerbside Pilot.

Kerbside Pilot – key numbers

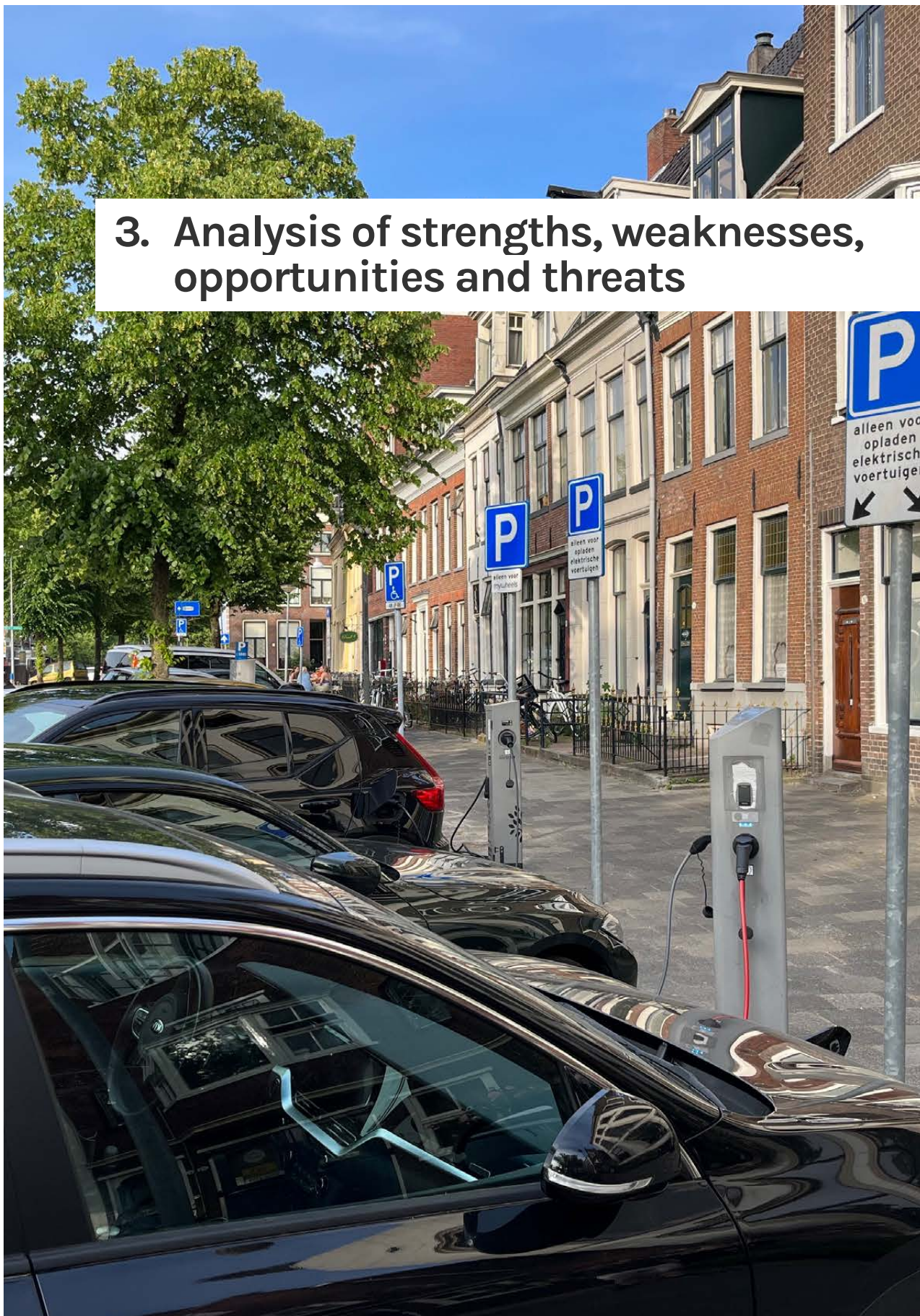
As of March, 2024, the kerbside Pilot has had:

- ~50 Expressions of Interest from the community over more than 2.5 years.
- 12 applications from interested residents.
- 10 approved applications, with two rejected due to their location within a flood zone.
- Seven installations have been completed.

Box 1 Kerbside Pilot - key numbers

Application times for the first four applications were six or more months, which is far longer than estimated by Council officers. This was due to unexpected issues and delays, however, more recent applications were processed quicker.

3. Analysis of strengths, weaknesses, opportunities and threats



This section provides a summary of the strengths, weaknesses, opportunities and threats.

A SWOT analysis of the kerbside charging Pilot shown in Figure 2.

3.1 Benefits of the Pilot

The Pilot's most significant benefit is that it has provided Council an opportunity to understand the complexities of installing a private use object in the public realm. This benefit has the potential to expand beyond the City of Port Phillip, by helping other local governments, in Victoria and elsewhere, of the complexity associated with the approvals and management process. Following the completion of the Pilot, it is likely many local governments will ask the City of Port Phillip of their experience, to assist them in making decisions regarding their own actions regarding EV charging.

Additionally, the Pilot benefited seven Port Phillip households by providing them with the opportunity to charge their EV directly outside their home.

3.1.1 Interviews with residents with a Kerb Charge device

All residents that have had a Kerb Charge installed were invited to participate in an interview with the report authors. The key themes to emerge from these discussions were highly consistent. Key findings:

- Enjoy the convenience of charging outside their home.
- Found Kerb Charge easily to deal with. Most spoke very highly of Rod Walker.
- Only in rare instances was the resident blocked from their charger by another vehicle.
- Participants of the Pilot would have liked the approval process to be faster and more transparent about the key steps and costs.

Strengths/benefits	Weaknesses	Opportunities	Threats
<ul style="list-style-type: none"> • Very convenient to participating residents, as they can charge from their own equipment, in front of their house. • Capability to reduce instances of residents running electricity cables from their property across the footpath to their vehicle. • Very low cost for electricity as they can use standard tariff electricity (or solar, where applicable). • Low capital cost to Council. • Provided Council with a first hand experience of managing a program in which a private use device is installed in the public domain. 	<ul style="list-style-type: none"> • High capital costs to residents. • Multi-dwelling units excluded from participation. • Renters unlikely to be able to participate. • Low capacity to scale, due to most dwellings being ineligible. • Individual solution, which excludes multiple users from using the same asset (low asset utilisation) • Not all properties will be able to participate due to exclusion criteria (e.g., flood zones). • Highly complex for Council to administer, due to time consuming and non-automated processes to assess applications. • Council having to provide insurance coverage and associated risks. • Insurance coverage remains unclear for installations beyond the Pilot. 	<ul style="list-style-type: none"> • Can support households without off-street car parking to charge their EVs. • Allows Vehicle to Home connections, so households may be able to power their home via their vehicle's battery in the future. 	<ul style="list-style-type: none"> • Council can lose some control of decision making in public realm, as parking spaces are legally subject to private interest. • Potential for those who install equipment to feel a sense of entitlement or ownership over the space in front of their home. • Potential for unreliability in circumstances where residents are unable to access the space connected to their charging equipment, at the time they need to charge. • Only one compliant supplier could be seen to weaken market competition and limit resolution of any installation or maintenance issues in the future. • Ground level devices have increased susceptibility to flooding while in use. • Limited environmental benefit if users do not by 100% renewable energy. • Lack of certainty regarding long term asset ownership/responsibility.

Figure 2 SWOT Analysis of the kerbside Pilot

3.1.2 Unrealised benefits

The Pilot had several potential benefits which were not realised, including being a low cost, simple way for home owners to access kerbside charging.

Unfortunately, these purported benefits remain largely unrealised. The complexity of the scheme has been a drain on Council resources, requiring a larger than anticipated staffing. This has regrettably hampered Council's ability to facilitate a public charging network. Similarly, installation costs have been around 40% higher than envisaged (\$7,000 compared to \$5,000), reducing the financial benefits to residents.

3.2 Limitations of the Pilot

Council's experience since mid-2021 has demonstrated a number of important limitations exist with the kerbside Pilot. The magnitude of these limitations is difficult to overstate, as they fundamentally limit the City of Port Phillip's ability to meet its objectives related to the enabling residents to transition their vehicles to EV.

The following provides a brief discussion of the key limitations associated with the kerbside Pilot.

3.2.1 Excludes a large number of residents due to housing type

Only households that live in single dwelling homes are eligible to apply. This excludes a significant proportion of Port Phillip's residents. In fact, it is estimated as little as 11% of Port Phillip's dwellings meet the criteria (i.e., owner-occupied detached or semi-detached dwellings). As highlighted below, this drops to around 7% when considering flood zones. As will be discussed below, siting requirements and provision of off-street car parking is likely to exclude many of these.

Renters are essentially excluded from the Pilot, as are any residents living in a multi-dwelling development, even if they lack off-street parking.

3.2.2 Excludes a large proportion of the City of Port Phillip

Flood zones cover a significant proportion of the City of Port Phillip. These areas are excluded from the Pilot. When accounting for flood zones, it is likely that only around 7% of dwellings meet the criteria of the Pilot. Additionally, households that live near a tram stop, intersection or other context in which it makes it difficult to install a charger, are excluded from the Pilot. Finally, renters, which constitute 44% of the Port Phillip population are effectively excluded from the program due to the lack of long term certainty regarding their residential address. Compounding this, even in the unlikely event that a renter was willing to invest in a kerbside charger, landlord approval (and insurance) represents an additional barrier. Figure 3 shows the areas liable for flooding in the City of Port Phillip.



Figure 3 Areas liable to flooding in the City of Port Phillip

Source: DPE, Plugshare

The Pilot excludes most of the 90% of dwellings which may have difficulty in accessing off-street charging, limiting its ability to scale.

3.2.3 Time consuming for Council staff

There are few, if any, programs that allow a resident to install electrical infrastructure for their exclusive use, in the public realm. This is what the kerbside charger Pilot involves. The complexities associated

with the Pilot has resulted in staff time being diverted away from establishing more effective, public charging opportunities.

Additionally, the existing permit based system is highly complex for enforcement of permit conditions. This must take place at multiple points in the process (pre, during and post installation). Ultimately, the staff time must be measured against the Pilot's outcomes (i.e., how many installations it achieves).

3.2.4 Ownership challenges

Despite having a condition in the permit that the ownership and responsibility of charger sits with the permit holder, there is ambiguity of ownership especially when a home is sold that has participated in the Pilot.

Establishing ownership of charger to applicant is legally possible through section 121 agreement. Although this has the benefit to tie the asset to the property, it involves considerable administrative work, requirement of legal counsel to draft all paper work and associated costs. Council received legal advice and based on this advice, it was determined there would be a condition (no. 13) in the street occupation permit that states:

"Upon installation of the kerbside charger, ownership and responsibility of the kerbside charger rests solely with the permit holder for the duration the permit is valid."

3.2.5 Insurance requirements beyond the Pilot

The current arrangement Council have with the MAV will not be applicable for any installations beyond the Pilot. The insurance coverage will continue for the kerbside chargers installed as part of the Pilot however.

3.2.6 Upfront costs

Even for those residents who do meet all the criteria may not be able to participate due to the upfront costs. The current costs are more than 10% of the cost of purchasing a new EV (BYD ATTO 3), and represents the equivalent of buying enough electricity to travel over 80,000km at 40 cents per kWh. It is highly likely that some residents chose not to participate due to the high upfront costs

associated with installing the kerb charger including permit costs. The authors are not aware of any other program, anywhere in the world, in which a household or individual is faced with these costs when seeking to charge their EV.

3.2.7 One supplier

There is only one supplier of compliant equipment, which can be seen to limit market competition. The Pilot appears to be built around a single product from a single supplier. This has locked in a single design, locked to a single product, and weakens the ability for competitors with different designs.

3.2.8 Potential conflict between residents

The installation of privately accessibly charging equipment into the public realm, at high cost to the individual, may generate a sense of entitlement to use that space exclusively. Community attitudes surrounding on-street parking are already fraught, with changes to parking management being a contentious issue. This has the potential to cause conflict. User reliability is related to this, with anyone able to park in any spot, but EV owners only able to charge in one particular spot. EV owners, who desperately need a charge may be in a dilemma, of waiting and hoping, or travelling to fast-charging which could be some distance away (increasing vehicle kilometres travelled and user cost).

3.3 Potential to increase scale

This analysis has found that only around 7% of Port Phillip's dwellings are likely to meet the criteria of the kerbside Pilot (due to dwelling criteria combined with flood zones). Given the sharp increase in demand for EVs over the next decade, the Pilot cannot increase in scale necessary to meet expected demand.

The Pilot is likely to face significant hurdles in transforming into a large-scale project.

Figure 4 provides an indication of the growth rate for EVs owned by Port Phillip residents. Given the introduction of lower cost EVs into the Australian market, coupled with the new fuel efficiency standards for new vehicles expected to take effect from early 2025, the demand for EVs among Port Phillip residents is expected to continue its sharp rise. By 2030, it can be expected that there may be at least 11,000 EVs in Port Phillip. It should be noted

that this is twice as many cars as are currently owned by separated housing households, and therefore at least half would be owned by people living in a dwelling with constrained EV charging capability.

The rapid rise in demand for EVs in Port Phillip will further expose the serious limitations in the ability of the kerbside Pilot to scale.

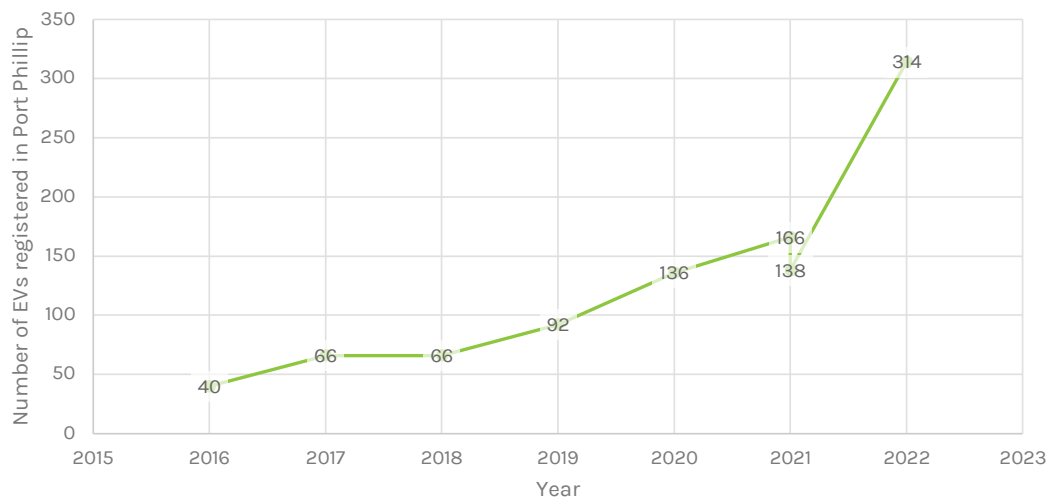


Figure 4 Growth of EV ownership among Port Phillip residents

Projected levels of EV ownership are shown in Figure 5.

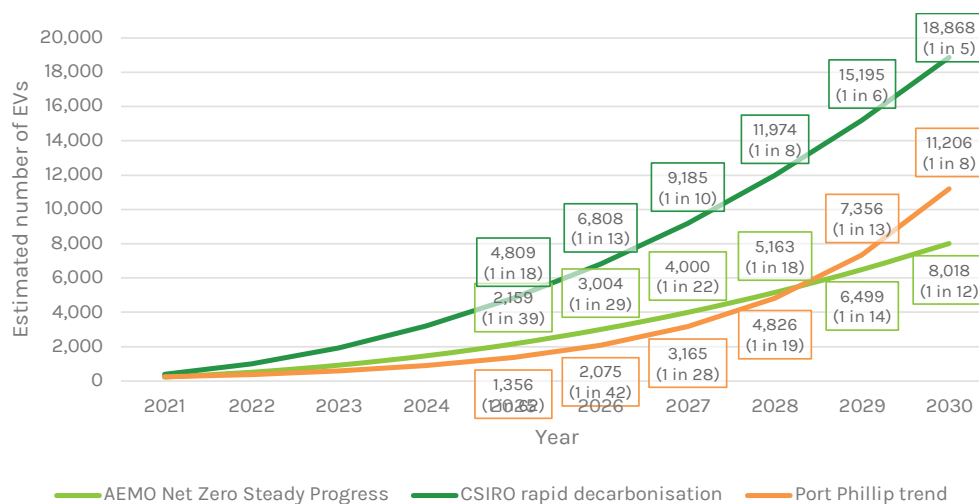


Figure 5 Projected EVs in Port Phillip, 2021 to 2030

The kerbside trial is likely to face significant hurdles in transforming into a large-scale project. In particular, the trial guidelines exclude most of the 90% of dwellings which may have difficulty accessing off-street charging.

4. Recommendations



This section offers recommendations to Council regarding the existing kerbside charger Pilot. It is based on an analysis of the performance of the current Pilot, interviews with staff and residents who installed chargers through the Pilot, analysis of best practice, both in Australia and abroad, as well as its ability to scale to meet projected demand.

4.1 Recommendation for future of the Pilot

It is strongly recommended that the Pilot cease accepting new applications and all resources be reallocated towards facilitating a public charging network. Closing the Pilot is the first step in Council achieving a more efficient outcome for residents and staff, and opening up charging possibilities for a wider proportion of the community.

By following a more conventional approach of facilitating a publicly accessible charging network to supporting residents without off-street parking to charge an EV, the City of Port Phillip will:

- Reduce costs to households;
- Expand the number of residents able to charge an EV in the City of Port Phillip;
- Reduce the negative economic impact when EV owners travel outside the LGA boundary to charge and spend while charging;
- Reduce the time burden on Council officers who administer the complexities of the current Pilot. This will free up time, which can be dedicated to more effective charging options.

Ultimately, the administrative burden the current Pilot places on Council staff is not achieving the required output, in terms of the number of chargers in Port Phillip. A more conventional approach, in which Council facilitates the development of public charging options is a better use of Council resources, that will result in cheaper, more plentiful charging opportunities for the Port Phillip community.

It is strongly recommended that the Pilot cease accepting new applications and all resources be reallocated towards facilitating a public charging network.

It is noteworthy that all jurisdictions with high EV adoption rates, including those with heavily constrained at-home charging, have embarked on public charging networks. Not one has attempted a wide-scale 'personal rather than public on-street electric vehicle charging' approach.

Only a public charging network has the potential to support all members of the Port Phillip community in participating in the transition to EVs.

All jurisdictions with high EV adoption rates, including those with heavily constrained at-home charging, have embarked on public charging networks.

4.2 Plan for legacy installs

While it is recommended that the Pilot comes to an end, it is also important to ensure that this does not place adverse impacts on those that have already had a charger installed as part of the Pilot.

If Council ends the Pilot without continuing to allow private charging equipment to be installed in the public realm (private kerbside charging), the following recommendations are made:

Existing installs should remain in place until:

- The owner breaches the terms and conditions of the permit;
- The owner decides not to continue with the permit;
- The property is sold;

- A period of five or more years has elapsed from installation *and* a publicly accessible charger has been installed within close proximity (100m) of the residence. This allows the resident to have enjoyed the majority, if not all of the expected life of the device and ensures they have a convenient place to charge near their home. This approach also mitigates against the risk to Council of having legacy chargers once a network of public chargers has become available.

It should be noted that the provider of Kerb Charge has informed Council that if the Pilot is not continued, the chargers they have installed will be removed and all costs will be refunded. This is not seen as a good use of the asset and is unlikely to be viewed favourably by those households that have gone to the effort of having the charger installed.

When the charger is removed, Council should give fair warning to the owner, allowing them reasonable time to remove the equipment and restore the footpath to the previous condition. If the owner does not remove the equipment and/or restore footpath within a reasonable time, Council should use the bond to pay for such works.

Private individuals commissioning footpath repair works is a highly unusual situation, and Council should provide support to the owner to assist in removing the equipment and restoring the footpath in a manner that meets Council's expectations. A list of approved providers should be developed and provided to the private individuals. Only approved contractors should be able to complete the works.

4.3 Next steps

Council will continue to explore effective approaches to enabling people to transition to EVs in the City of Port Phillip.

5. Appendix 1 Council meeting



This section is intended to highlight an important departure between the understanding of Councillors and officers regarding the costs associated with the Kerb Charge device to the resident. It uses transcript excerpts from Council Meeting held on 1 September 2021⁴

During public question time and submissions

30:20 Mr Walker: ...this change calls for a two-year trial period with a maximum of five residents for those two years. If adopted it will have the unintended consequence of delaying electric vehicle adoption and significantly disadvantage Port Phillip residents in their desire to change, to charge their electric vehicles from the standpoint of cost convenience and importantly safety. We expected and anticipated a trial to run for a maximum of three months and would install *Kerb Charge* for free for the trial period. At the end of which the trial participants could either continue with *Kerb Charge* in which case they would be given a bill for half the price of installation or elect to discontinue use and we would return the footpath or nature along with the residents property to its original condition.

During debate on the motion

2:13:00 Cr Sirakoff: Can council please clarify, with the trial of five charging points? I thought these were free those who were applying, those five homes who applied for it and there was no charge during the trial period of \$5,000 or that \$4,000 to \$5,000.

Council Officer: The proposal is for the applicants to cover the cost of procuring and installing the infrastructure, which is likely to be, depending on where it is, in the region of \$4,000 to \$5,000 depending what kind of works are required. It is also proposed to charge a fee for those permits so an initial application fee for \$124 with an annual renewal fee of \$100 per year.

Cr Sirakoff: But during the trial period?

Cr Crawford: Can I clarify that it is depending on the applicant who is putting the infrastructure in. It is nothing to do with council. The cost, the free parts...

Cr Sirakoff: I thought the company which was supplying the EV charging points was going to supply for free. The installation and the product itself.

Cr Crawford: Kylie Bennetts is going to clarify.

Council Officer: I think council for the purposes of deciding whether to issue a permit or not needs to, so council wouldn't be involved in commercial discussion or negotiations that a resident might have with any provider. So, what officers have done is put forward a recommendation based on the average cost and given the average cost and the investment that council, sorry a resident may need to make a reasonable return on that investment in terms of setting the required permit. The reason we have done that is that we don't think that it is appropriate for us to get into individual negotiations residents might have with providers and if that negotiation changed we would not want that to be a risk to council which is why we have looked at it in terms of cost of if someone were to pay the full cost, making sure that they are getting a reasonable return on investment both in terms of a financial and also an environmental perspective.

2:15:54 Cr Consolo: Thank you. I have two questions clarify what we were just talking about. My understanding is that there are two costs essentially for this. If you were starting out you, the resident, would need to buy the battery that charges, and then there is the cost that is the connection that we are

⁴ Video of the meeting can be found at: <https://webcast.portphillip.vic.gov.au/archive/video21-0901.php>

talking about for this permit tonight. So that would be what would be covered by the *Kerb Charge* company. Is that correct?

Cr Crawford: I think as Kylie indicated, a lot of that is to do with the commercial element, is it not Kylie?

Council Officer: So, there is the cost in terms of purchasing the charger but also the installation costs as well and that would not be council or council officers were party to so that would be potential a cost to the resident depending on what arrangement they made strike with the party provider. There is also a cost in terms of a permit cost to council. And that was proposed through the council plan and budget process so there was a legal basis from which to charge that in the event that council would issue a permit at this time or some time into the future. So, you are right in that there are two costs, but there is only one cost in that it relates to council, the permit fees and a bond to cover any potential damage to the public realm that hopefully won't occur, but in the unfortunate event that it did, the bond is there to cover that cost.

In debate about increasing the number of participants

2:18:55 Cr Consolo: Was there a number provided by *Kerb Charge* that they would be prepared to bring the trial up to at their cost.

Council Officer: I believe that the number stated by Mr Walker earlier was that he would be willing to negotiate directly with community members to provide some infrastructure for up to five. But regardless of that negotiation it could, we could increase that number, if other community members were willing to pay for it or if they could come to some other arrangement.

2:19:45 Cr Clark: I think this is a question, but it feels like we are negotiating into the commercial realms of the negotiation around this from what the company may be prepared to provide and the community and what that price may be subject to how many we may. So, I am just not sure we can move an amendment to the motion or request more information or expand it potentially on the motion. You know. Subject to that, I would have thought that council officers would need to reengage with the company to ensure that that is something that they could provide.

Cr Crawford recaps question to Council Officer due to Cr Clark's poor internet quality

2:21:15 Council Officer: It wasn't the officers' intention to be engaged with any commercial negotiations between any individual and provider.

In moving the motion

2:24:55 Cr Crawford: ...this really is in bringing it into line with addressing the climate emergency, looking at the keenness of our community and especially given the knowledge we have around for the first five there is not a cost, an upfront cost to them, so the payback period isn't an issue in these early stages for the people that participate in this trial, so I am asking you to support this so we can get this on the road and see if this can be the first in Australia to make a huge difference in inner city councils across the country.

Institute for Sensible Transport

202/26 – 30 Rokeby Street
Collingwood 3066
Melbourne, Australia VIC
E: info@sensibletransport.org.au
www.sensibletransport.org.au



Pole-mounted Electric Vehicle Charger locations Engagement Summary



Council engaged the community on where they would like to see pole-mounted Electric Vehicle (EV) chargers.

This information will be used to help Council determine the best locations to support more accessible public EV charging across City of Port Phillip.

This report summarises the findings of the engagement.

How did we engage?

A Have Your Say page was open from 27 November to 17 December 2023, inviting respondents to 'drop a pin' on the map with suggested locations.



37% of respondents heard about the engagement as active members of Council's Have Your Say page e-newsletter.

Who did we hear from?

We heard from 89 contributors from most suburbs in Port Phillip, with the most from Port Melbourne, St. Kilda and South Melbourne. All respondents were from City of Port Phillip.

Over half of survey respondents were in the 35-49 and 50-59 year old age groups, and 49% identified as male.

Over three-quarters of respondents own their own homes and nearly two-thirds do not have access to charge an EV at their property.



49% identified as male
48% identified as female
5% identified as LGBTIQ+



39% aged 35-49 years
22% aged 50-59 years
18% aged 25-34 years
No-one aged 18-24 years



Most suburbs in Port Phillip represented
23% from Port Melbourne
23% from St Kilda
18% from South Melbourne
8% from Elwood and Middle Park



31 respondents were EV owners.
63% do not have access to charge an EV at their property



76% are Owner/Occupiers
63% do not have access to charge an EV at their property

St Kilda Town Hall, 99a Carlisle Street, St Kilda, Victoria 3182
ASSIST Customer Service 03 9209 6777

[portphillip.vic.gov.au](https://www.portphillip.vic.gov.au)   

Pole-mounted Electric Vehicle Charger locations Engagement Summary



What did we hear?

The engagement results show 173 locations where our community would like to see pole-mounted EV chargers.

Finding #1

173 locations were suggested by 89 respondents. Over half of respondents (51%) suggested more than one location.

Most suggested locations by suburb:

Suburb	No. of Sites
St Kilda	38
Port Melbourne	36
South Melbourne	30
Elwood	19
Albert Park	12
St Kilda East	10
Balaclava	8
Middle Park	7
St Kilda West	7
Melbourne (St Kilda Road)	6
Ripponlea	0
Southbank	0
Windsor	0

Finding #2

Finding #3

40% of respondents said that limited access or no access to nearby charging stations was stopping them from purchasing an EV.

Finding #4

Of the 31 EV owners who responded, 30 (97%) said they are not able to find charging stations conveniently in the City of Port Phillip.

A map of suggested locations is shown overleaf.

St Kilda Town Hall, 99a Carlisle Street, St Kilda, Victoria 3182
ASSIST Customer Service 03 9209 6777

[proudly portphillip.vic.gov.au](http://proudly.portphillip.vic.gov.au)



Next steps

Feedback provided will help us compile a list of locations that can be further analysed for suitability and technical compliance for installation. Not all locations suggested may be suitable due to a range of technical factors.

These will include technical constraints such as the available capacity of the electrical network to charge vehicles, and consideration of parking restrictions and availability.



Council will provide feasible locations to partners to investigate installation of EV chargers mounted on power-poles across the City of Port Phillip.



Pole-mounted Electric Vehicle Charger locations Engagement Summary

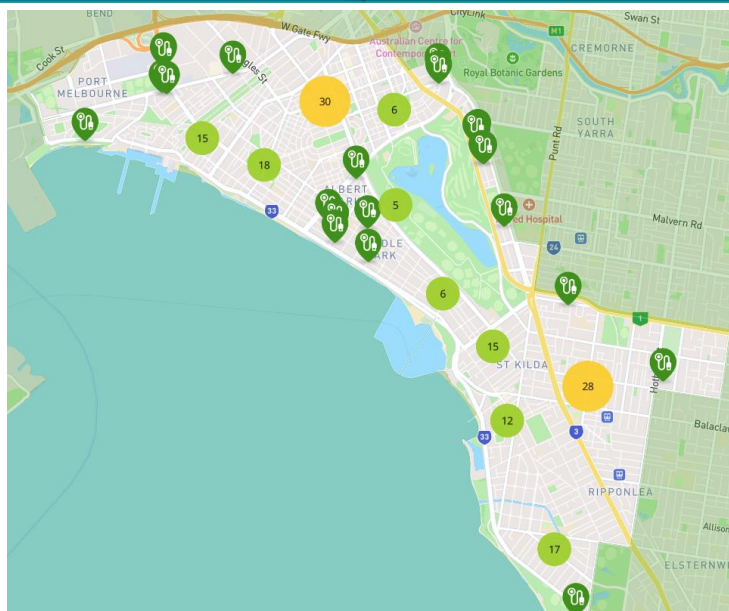


Figure 1. Map showing the density of suggested locations for pole-mounted EV chargers

More information

Any new EV charger locations will be promoted on the [Kerbside Power Pole EV Charger locations](#) Have Your Say page, and also on Council's [Electric Vehicles webpage](#).

To find out more about this project, or other projects at City of Port Phillip, or to contact us about a project, [visit the Have your say webpage](#).

St Kilda Town Hall, 99a Carlisle Street, St Kilda, Victoria 3182
ASSIST Customer Service 03 9209 6777

[portphillip.vic.gov.au](https://www.portphillip.vic.gov.au)   



12. VIBRANT PORT PHILLIP

Nil

13. WELL GOVERNED PORT PHILLIP

13.1	<i>Information Protection Agreement - Department of Transport and Planning (VicRoads)</i>	<i>511</i>
13.2	<i>Policy Completion Dates.....</i>	<i>531</i>
13.3	<i>Lifting of the confidentiality status of information considered by Council in closed meetings of Council</i>	<i>535</i>

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



13.1 INFORMATION PROTECTION AGREEMENT - DEPARTMENT OF TRANSPORT AND PLANNING (VICROADS)

EXECUTIVE MEMBER: BRIAN TEE, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT

PREPARED BY: BILL MULHOLLAND, COORDINATOR APPEALS ADMINISTRATION

NELLIE MONTAGUE, ACTING MANAGER SAFETY AND AMENITY

1. PURPOSE

- 1.1 To seek Council's approval for the CEO to enter an Information Protection Agreement with the Department of Transport and Planning (VicRoads) to obtain vehicle owner information for law enforcement purposes from 1 July 2024 to 30 June 2029.

2. EXECUTIVE SUMMARY

- 2.1 The Department of Transport and Planning (DTP) through VicRoads, provide vehicle owner information to enforcement agencies through an Information Protection Agreement (IPA), as specified under s.90N of the Road Safety Act 1986.
- 2.2 These agreements contain strict data protection and privacy provisions, operate as an at-cost service to Victorian Councils and have a five-year term. Council's current agreement expires 30 June 2024 and is due for renewal.
- 2.3 As an authorised enforcement agency, Council obtains vehicle owner information to enable lawful investigations, escalation of unpaid infringement notices, and for the prosecution of matters at the Magistrates' Court.
- 2.4 The estimated total cost of this data provisioning service is \$1,644,048 (GST exempt) over the five-year term of the agreement, being approximately 70,000 requests per year with a \$4.25 per request fee, calculated with assumed annual fee increases.
- 2.5 These costs are fully offset, primarily through raising penalty reminder notice fees at an estimated income for 2024/25 at \$1.97M.

3. RECOMMENDATION

That Council:

- 3.1 Authorises the CEO to enter into a new Information Protection Agreement with the Department of Transport and Planning (VicRoads) for the provision of vehicle owner information for law enforcement purposes from 1 July 2024 to 30 June 2029. The estimated value of this service over the maximum five-year term is \$1,644,048 (GST exempt).
- 3.2 Notes that this provision of information is fully budgeted for the 2024-25 financial year, being estimated at \$304,058. Costs of this service are fully off-set by income generated through parking infringement penalty reminder notices.

4. KEY POINTS/ISSUES

- 4.1 Council is an enforcement agency for various legislative Acts and is often required to source vehicle owner information from State Government agencies for law enforcement



purposes related to Parking Services, Local Laws, Planning Compliance, Animal Management and Health Services.

The Department of Transport and Planning (DTP) provide this information to enforcement agencies through an Information Protection Agreement (IPA), which operates as an at-cost service and has a five-year term. Council's current agreement expires 30 June 2024 and is now due for renewal.

- 4.2 Obtaining vehicle owner information is a key component for law enforcement purposes, enabling Council officers to perform certain actions, such as contacting the owners of abandoned vehicles prior to impoundment; obtaining offender contact information (where offenders have driven away without providing their information) in Local Law and Animal Management matters; parking infringement notices served by post; and predominantly for the escalation of unpaid parking infringements, ultimately enabling registration of matters with Fines Victoria and the Magistrates' Court.
- 4.3 Vehicle owner data requests attract a fee depending on the detail of the request. Over 70,000 simple requests are made each year, and a small number of more detailed requests. The forecast cost for 2024/25 is \$304,058 (GST exempt). Factoring in assumed fee increases, the total estimated cost of service over the five-year term is \$1,644,048.
- 4.4 The DTP are the sole providers of the required information, which includes vehicle owner name, address, driver license number, as well as providing certified historical results required for the prosecution of certain cases at court.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Consultation has been undertaken internally between Safety and Amenity, DTS and the Procurement team to establish the required information relating to data security and retention, as well as the most appropriate method for seeking approval.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 Council have maintained IPAs for more than 20 years with no interruption of service. There is minimal risk to Council in renewing this proposed agreement.
- 6.2 Data provision and privacy protections include mandatory annual user training, restricted database access, robust DTS security provisions and annual external data protection auditing and certification.
- 6.3 The 2023 City of Port Phillip Procurement Policy (Version 6.2.2) makes no specific provision for inter-governmental service agreements and the Information Protection Agreement does not fit cleanly within the existing exemption categories in clause 4.3 of the aforementioned policy.
- 6.4 Future Procurement policy reviews will consider including exemption options for inter-governmental and law enforcement related procurement requirements.
- 6.5 Due to the unique nature of this agreement and the sole-supplier available to provide this service, Council approval is required as the estimated maximum cost of service exceeds the CEO's financial delegation.
- 6.6 There are no identified transition risks, due to continuation of an existing service.



7. FINANCIAL IMPACT

- 7.1 Vehicle owner data requests attract a fee depending on the detail of the request, and are broken into three pricing elements:

Simple Search	\$4.25 per request
Section 84	\$10.35 per certificate
Manual Archive Search	\$20.70 (rarely used)

Of the 70,000+ requests made annually, greater than 99% of these are 'simple'. The budget forecast for 2024/25 is \$304,058 (GST exempt). Factoring in assumed annual fee increases, the total estimated cost of service over the five-year term is \$1,644,048.

- 7.2 Anticipated costs are fully provided for in the 2024/25 budget.
- 7.3 All costs incurred are fully offset, primarily through raising penalty reminder notice fees (currently at \$27.70 per notice), at an estimated income for 2024/25 at \$1.97M.

8. ENVIRONMENTAL IMPACT

- 8.1 There are no environmental impacts arising from this report, which relates to provision of information by electronic means.

9. COMMUNITY IMPACT

- 9.1 There are no direct community impacts arising from this report, other than maintaining the current ability for Council to investigate and enforce legislative obligations to improve the safety and amenity of the City of Port Phillip.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 This report relates to strategic direction 5 – Well Governed Port Phillip.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

- 11.1.1 The current agreement will expire 30 June 2024, with the new agreement to begin 1 July 2024, for a term of five years.

11.2 COMMUNICATION

- 11.2.1 Communications will occur internally with relevant stakeholders.

12. OFFICER MATERIAL OR GENERAL INTEREST

- 12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

ATTACHMENTS

1. Information Protection Agreement Template
2. Information Protection Agreement Attachment

Information Protection Agreement

Parties

The Secretary to the Department of Transport and Planning of 1 Spring St Melbourne, Victoria 3000 (**Discloser**)

and

Recipient specified in the *Attachment*

Part 1 – Agreement Terms

Access to Information

1. Discloser agrees to grant Recipient access to the Information solely for the Purpose, on the terms of this Agreement.
2. Discloser will provide access to the Information by the Means. Discloser may change the Means (and associated terms to implement the change of Means) during the term of this Agreement, on provision of at least 30 days' notice to Recipient, provided the Information supplied and supply timeframe remains substantially the same.
3. Discloser has Authority to share the Information in accordance with the Authorising Provision set out in the *Attachment*.

Protecting the Information

4. Recipient must:
 - (a) Keep the Information secure and confidential in accordance with GOP and not disclose it or allow it to be disclosed to any third-party (except as required for the Purpose) or on-sell or commercialise the Information in any way.
 - (b) Only access, use and disclose Information for the Purpose (apart from Incidental Use or if the disclosure is Required by Law).
 - (c) Implement and maintain the Security Controls in *Schedule 1* (and promptly provide Discloser with information about its adherence to Security Controls as requested by Discloser).
 - (d) Comply with all applicable Privacy Laws in relation to the Information.
 - (e) Limit access to the Information to Nominated Users with a Genuine Operational Need for it (other than for Incidental Use).
 - (f) Ensure that Nominated Users with access to Information (other than for Incidental Use) satisfactorily complete Training and do not access or use the Information other than for a Genuine Operational Need.
 - (g) Ensure that Nominated Persons and Subcontractors are aware of this Agreement and its obligations, including

by use of SOPs, and that they comply with it.

- (h) Ensure that any sharing of Information with third parties (other than Subcontractors) has the prior written consent of Discloser.
 - (i) Not undertake Data Matching using the Information, except as specified in the *Attachment*.
 - (j) Not use a Novel Data Technology to process the Information except with Discloser's prior written permission.
 - (k) If notified by Discloser that specific Information has been sent to Recipient in error, promptly Destroy that Information and confirm destruction to Discloser.
 - (l) Notify Discloser as soon as it receives a demand for disclosure of the Information as Required by Law (or as soon as it has reasonable grounds to believe that it might receive such a demand), allowing Discloser the opportunity to object to such disclosure.
 5. Recipient:
 - (a) undertakes that the Information will be used or disclosed only for the Purpose; and
 - (b) acknowledges that Discloser is bound by the VPDSS. Recipient must not do any act or engage in any practice (including by omission) that would, if done or engaged in by Discloser, contravene the VPDSS.
 6. If requested by Discloser, Recipient will use its best endeavours to assist Discloser to comply with its obligations under Part 4 of the *Privacy and Data Protection Act 2014* (Vic).
 7. Discloser may use a contractor to perform some or all of its functions under this Agreement, including but not limited to its delegate R&L Services Victoria Pty Ltd (ABN 28 657 005 493) as trustee for the Victorian R&L Services Trust (ABN 96 342 123 072) and trading as VicRoads.
- #### Subcontractors
8. Subject to clauses 15(e) and 15(f), Recipient may provide its Subcontractors Information access provided Recipient includes all of the Subcontractor's Employees who have access

to the Information in the Register of Nominated Users, and the Subcontractors:

- (a) are Australian Entities;
- (b) are notified to Discloser prior to being granted access to the Information;
- (c) ensure that all their Nominated Users only access the Information while physically in Australia unless Discloser's prior written consent is obtained;
- (d) only handle the Information to provide a service directly related to the Purpose, under contractual terms which are the same or more protective than the terms of this Agreement, in order to protect the Information consistent with the terms of this Agreement;
- (e) ensure that all Information they handle or store remains in Australia at all times, unless Discloser's prior written consent is obtained; and
- (f) have a Genuine Operational Need to access the Information for the Purpose (other than just for Incidental Use).

Recipient must ensure that the information listed in the 'Subcontractor' section of the **Attachment** and the Register is accurate and current, with prompt notification to Discloser when a Subcontractor or a Subcontractor Employee commences, changes or ceases activities impacting the Information.

- 9. Recipient is not, as a result of any subcontracting arrangement, relieved from the performance of any obligation under this Agreement and will be liable for the acts and practices of any Subcontractor as though they were its own acts and practices.
- 10. Recipient acknowledges that Discloser may require any Subcontractor to enter a confidentiality agreement, and/or maintain an "approved Subcontractor" status with Discloser (which may include, without limitation, maintaining compliance with any conditions imposed by Discloser).

Recipient Representatives

- 11. Recipient must appoint:
 - (a) an Executive Representative to oversee compliance with this Agreement;
 - (b) an Org Rep to undertake day to day compliance with this Agreement and act as the main point of contact;
 - (c) an Alternate Org Rep (and optionally, an Admin Contact); and
 - (d) a Security Representative.
- 12. Recipient must notify the Discloser Contact within 10 Business Days of any change of Org Rep, Alternate Org Rep, Executive Representative or Security Representative updating the name and contact details.

Register of Nominated Persons

- 13. Recipient must maintain an up to date Register of Nominated Persons containing the name, employer, email and Online Access username (if applicable) of each Nominated User and the terms and extent of their access to the Information, and the start and end date of their access, and the name, employer and email of each Nominated Viewer.
- 14. Within 10 Business Days after any change to Nominated Persons, the Org Rep must send Discloser Contact (and Discloser's Online Contact where Recipient has Online Access under this Agreement) a notification email to that effect (and must supply an updated Register at any time if requested by Discloser). If the Nominated Person is removed for an Integrity Issue, the notification to Discloser must be issued as soon as possible and in any event within 2 Business Days and include reasonable details of that Integrity Issue.
- 15. The Org Rep must approve the addition or removal of any Nominated Person and ensure on an ongoing basis that:
 - (a) each Nominated User is a fit and proper person to access the Information, including by applying appropriate vetting checks before first access to the Information and ongoing (at a frequency of no more than once every two years, as reasonably requested by Discloser from time to time);
 - (b) any Nominated Person for whom an Integrity Issue exists has their Nominated Person status promptly terminated;
 - (c) each Nominated Person added to the Register has a Genuine Operational Need to access or view the Information;
 - (d) any email group used by Recipient to receive data from Discloser contains only current Nominated Users;
 - (e) no Subcontractor is given access to the council vehicle registration look up interface (for registration look-ups);
 - (f) no Subcontractor is given Online Access unless prior written authorisation has been provided by Discloser;
 - (g) a person who ceases being a Nominated User can no longer access the Information.
- 16. Recipient must store the Register securely in compliance with the Security Controls in **Schedule 1** and prevent its unauthorised use or disclosure.
- 17. When a person purporting to be a Nominated User seeks access to Information, Discloser may request reasonable additional evidence (such as use of Recipient letterhead or Recipient email) from the Org Rep to confirm the identity of that person and Discloser may

refuse access to any person until it is satisfied the person is a Nominated User.

Online Access

18. Discloser may, in its discretion, grant Recipient Online Access. The Discloser reserves the right to charge a fee for providing Online Access.
19. If Discloser grants Recipient Online Access, Recipient must:
 - (a) ensure its Nominated Users are aware of the Online Access Terms; and
 - (b) comply and ensure that its Nominated Users comply with the Online Access Terms.
20. The Org Rep must complete and execute an application in such form as Discloser may require for each Nominated User who is to be given Online Access and provide the application to the Discloser Contact.
21. Discloser may terminate the Online Access of any Nominated User at any time, including for failure to comply with this Agreement or the Online Access Terms.
22. As a security measure, any Nominated User who does not use Online Access:
 - (a) for 90 days will have it suspended by Discloser; and
 - (b) for 180 days will have it revoked by Discloser.
23. If Online Access is suspended or revoked due to lack of use, the Org Rep may email Discloser's Online Contact to request that Online Access be restored for that Nominated User.

Nominated User Training

24. Each Nominated Person (including those employed by a Subcontractor) and the Org Rep, Executive Representative, Security Representative and Alternate Org Rep (if applicable) must satisfactorily complete the Training before they first access or handle Information under this Agreement, and at any other times described in the **Attachment** or notified by Discloser from time to time. If Recipient requires training from Discloser in relation to accessing the Information, Discloser will use reasonable efforts to provide that assistance but reserves the right to charge Recipient a cost recovery fee.

Annual Audit

25. Recipient must email an Audit Report to the Discloser Contact in respect of activities under this Agreement during the Audit Year by 31 August of each year (or other date notified by Discloser).
26. The Audit Report must fully and accurately respond to the Audit Schedule. If Discloser considers that the Audit Report is insufficiently detailed or incomplete, Discloser may request further relevant information within a specified

reasonable timeframe, and Recipient must respond by providing the requested information within that timeframe.

27. Recipient may request an extension to the timeframes under clauses 25 or 26 by emailing the Discloser Contact with reasons. Discloser may approve or reject an extension request, in its discretion.

Rectification Reports

28. If Recipient identifies any area of non-compliance with this Agreement while completing an Audit Report, which is identified as ongoing and not closed, Recipient must submit a Rectification Report in any format specified by Discloser within 30 days after the due date for that Audit Report.
29. The Rectification Report must identify:
 - (a) ongoing non-compliances that have been fully rectified and closed; and
 - (b) ongoing non-compliances that remain open, with a detailed plan and timeframe for risk minimisation and rectification.
30. If Discloser is not satisfied that the Rectification Report adequately addresses risks in an appropriate timeframe, Discloser may request further relevant information (to be submitted by Recipient within 10 Business Days of request) and/or impose reasonable mandatory conditions on Recipient, or suspend Recipient's access (or the access of any Nominated Person) to the Information until Discloser considers that the risks have been adequately addressed.
31. Recipient may request an extension to the timeframe under clause 30 by emailing the Discloser Contact with reasons. Discloser may approve or reject an extension request, in its discretion.

Failure to Provide Report

32. If Recipient fails to provide an Audit Report or Rectification Report within the relevant timeframe (or at all) or, if Discloser is not satisfied that the Audit Report or Rectification Report adequately addresses any non-compliances and identified risks in an appropriate timeframe, Discloser may, at its discretion:
 - (a) impose reasonable mandatory conditions on Recipient; and/or
 - (b) suspend Recipient's access (or the access of any Nominated User) to the Information until Discloser considers that the non-compliances or risks have been adequately addressed.

Warranties

33. In respect of Recipient Information Recipient warrants that:
 - (a) the Recipient Information was collected in accordance with applicable Privacy Laws; and

- (b) Discloser is authorised (either by consent or by law) to use the Recipient Information to provide access to relevant Information.
- 34. Discloser makes no warranties:
 - (a) in respect of the quality or accuracy of the Information;
 - (b) that the use of the Information does not infringe third party intellectual property rights; or
 - (c) regarding the timeliness of provision of Information requested by Recipient.
- 35. If Recipient becomes aware of inaccuracies in the Information, it will notify Discloser accordingly.

Indemnity & Release

- 36. Recipient indemnifies Discloser and its officers, employees, delegates and agents against all losses, claims, expenses, costs (including legal costs on a full indemnity basis) or damages which arise out of:
 - (a) Recipient's (or its Subcontractor's or Employee's) access to or use of the Information;
 - (b) any error in or modification to the Information caused by Recipient or its Subcontractor/Employee;
 - (c) reliance by Recipient, any Subcontractor/Employee or any third party on any material/opinion derived in whole or in part by Recipient or a Subcontractor or an Employee from the Information;
 - (d) any Security Incident or Cyber Attack caused or significantly contributed to by the action or negligence of the Recipient; or
 - (e) any breach of this Agreement or of applicable Privacy Laws, Public Records Legislation or other applicable laws by Recipient or its Subcontractor or Employee,except to the extent that any such loss, claim, expense, cost or damage is caused or contributed to by the negligent act of Discloser.
- 37. Recipient's use of Information is at its own risk, and Recipient releases and discharges Discloser and its officers, employees, delegates and agents and holds them harmless against all claims for loss, damage or personal injury suffered by any person resulting from Recipient's or its Subcontractor/Employee's use of the Information, or for any materials or services produced or derived from the Information by Recipient or its Subcontractor/Employee.

Security Incident

- 38. If Recipient becomes aware of a Security Incident, it must follow the Security Incident Response in **Schedule 3**.
- 39. In response to a Security Incident, Discloser may:
 - (a) suspend access to the Information (or any part of it);
 - (b) issue directions to minimise and/or rectify the Security Incident, which Recipient must comply with;
 - (c) require Recipient and/or its Subcontractor(s) to notify affected customers, including by requesting that they delete any Information sent in error;
 - (d) seek and Recipient must provide immediate Investigative Access to Recipient's premises or systems (or that of its Subcontractors) for the purpose of conducting an investigation into the cause, impact or appropriate rectification of any Security Incident; and
 - (e) terminate this Agreement.

Other powers of Discloser

- 40. On provision of at least 5 Business Days' notice, Discloser may conduct (or require access for a suitably qualified nominee to conduct) an ad hoc audit of Recipient's compliance (including Subcontractor compliance) with this Agreement.
- 41. If Discloser notifies Recipient that it has been selected for ad hoc audit on a specified date or dates, Recipient must provide Discloser and/or its nominee with Investigative Access on the date(s).
- 42. Discloser may require Recipient and/or its Subcontractors to participate in a TPRM program, and Recipient must cooperate with the TPRM program and require its relevant staff (or the relevant staff of the Subcontractor) to respond to TPRM queries within a reasonable period of no more than 30 days.

Record Keeping

- 43. Recipient must maintain its own Log and ensure that its Subcontractors do also, and, on request by Discloser, must email a copy of the relevant Logs to Discloser Contact for inspection.
- 44. Recipient and its Subcontractors must retain the Log for 7 years.

Document Retention

- 45. Any digital or physical record in Recipient's (including its Subcontractor's) control containing Information must be Destroyed promptly after use wherever possible, and not retained longer than required for the Purpose.
- 46. Information may only be retained in Recipient's and/or its Subcontractor's records

after termination of this Agreement if required by law, including Public Records Legislation.

No transfer of Intellectual Property Rights

47. Except as expressly provided in this Agreement, nothing in this Agreement may be construed as granting or conferring on Recipient and/or its Subcontractor any Intellectual Property Rights, licences or other rights in the Information. All Information remains the intellectual property of Discloser/Victorian Government and must not be on-sold, data mined, used for machine learning/artificial intelligence training, or for any commercial purposes other than as specifically covered by the Purpose.

Fees and Costs

48. Recipient agrees to pay the Fees in relation to accessing the Information. The Fees must be paid at such times and in such manner as specified in the **Attachment**. In the case of late payment, Discloser may suspend access to Information until payment is made. The Fees are subject to the Annual Fee Adjustment specified in the **Attachment**.
49. Each party must pay its own costs and expenses in relation to this Agreement, and any document related to this Agreement including Audit Reports, Logs and Rectification Reports.

Term and Termination

50. This Agreement replaces any previous such Agreement between the parties and is in effect for the Term specified in the **Attachment** unless it is earlier terminated under clauses 39, 51, 52 or Schedule 2, clause 11.
51. This Agreement may be terminated by either party giving at least 30 days' written notice to the other party.
52. Discloser may terminate this Agreement without notice if a dispute under clause 64 has not been resolved within 90 days, or if it reasonably believes that Recipient or a Subcontractor:
- (a) has not complied with an obligation under this Agreement, and the non-compliance cannot be rectified or has not been rectified within the time specified by Discloser;
 - (b) has not complied with applicable Privacy Laws, Public Records Legislation or other applicable laws in respect of the Information; or
 - (c) has or may soon cease operating, become insolvent or enter administration or liquidation.
53. The following provisions survive termination or expiry of this Agreement, in respect of any Information provided during the term of this Agreement:
- (a) Protecting the Information (clauses 4 - 6);

- (b) Indemnity and release (clause 36 - 37);
- (c) Security Incident (clauses 38 - 39);
- (d) Recordkeeping (clauses 43 - 44);
- (e) Document Retention (clauses 45 - 46);
- (f) Warranties (clauses 33 - 35);
- (g) No transfer of Intellectual Property Rights (clause 47);
- (h) Termination (clauses 51 - 52);
- (i) Governing Law (clause 67).

Variation, Assignment and Transfer

54. In the event of a change to laws (including applicable Privacy Laws, Public Records Legislation or other applicable laws) or business practice that affects this Agreement, Discloser may propose reasonable amendments to this Agreement to accommodate the change, and unless Recipient objects to the proposed amendments by written notice within 30 days of receipt, the proposed amendments will form part of this Agreement.
55. The "Recipient Details" section in the **Attachment** may be updated by Recipient at any time by written notification.
56. At any time, Discloser may offer Recipient an optional Premium Product, and if Recipient chooses to accept that offer in writing, the Agreement and Fees will be adjusted accordingly.
57. Subject to clauses 2, 54, 55 and 56 this Agreement (including **Attachment** and **Schedules**) may only be varied in writing with the signed consent of each party. A variation will apply from the date the last party gives its signed consent.
58. Assignment and transfer is allowed as follows:
- (a) if the name of either party changes but the legislative and other functions of the party remain substantially the same, that party must notify the other party in writing accordingly, and the Agreement will be deemed to bind that party by its new name from the date of the change, with no need for formal variation documentation;
 - (b) Discloser may, by notice in writing to Recipient, assign its rights and transfer its obligations under or novate this Agreement to any Victorian Public Entity in the event of any State government restructure or other re-organisation or change in policy, including where another entity assumes any responsibility for the Information.
59. Other than as set out in clause 58(a), Recipient may not assign any right or transfer its obligations under or novate this Agreement without the prior written consent of Discloser. Recipient will be responsible for acts and omissions of any assignee.

Exemptions

60. In its discretion, Discloser may exempt Recipient from compliance with a provision of this Agreement by prior notice in writing, and any exemption agreed as at the date of this Agreement is recorded in the **Attachment**.

Notices

61. Any notice, consent or request under this Agreement is made if emailed to the Org Rep or the Discloser Contact (respectively) at their email address in the **Attachment**. If it is sent:
- (a) During Business Hours, it will be taken to be received 20 minutes after the sending time unless the sender is informed (by automatic notice or otherwise) that the email has not been received; or
 - (b) Outside Business Hours, it will be taken to be received 60 minutes after the start of the next Business Hour unless the sender is informed (by automatic notice or otherwise) that the email has not been received.

Project Protocols

62. The parties agree to document any new Information sharing project approved by Discloser using a Project Protocol, in the form specified by Discloser. Once completed and signed by both parties, a Project Protocol forms part of this Agreement and all Information shared under that Project Protocol is subject to the terms of this Agreement.

Joint Law Enforcement

63. If the Recipient is an Investigative Agency and the Purpose includes the investigation or prosecution of criminal offences, the Recipient may share Information with or receive Information from another Investigative Agency for joint law enforcement activities provided that:

- (a) both entities are parties to a current information protection agreement with Discloser;
- (b) any shared information is used consistently with both agreements, including the Purpose set out in each agreement; and
- (c) the Recipient obtains the prior written consent of the Discloser.

Dispute Resolution

64. If there is a dispute and the parties (acting in good faith) cannot resolve the dispute within 10 Business Days of the commencement of negotiations, the matter will be referred to the Discloser Executive Representative and the Executive Representative for resolution. If those executives cannot resolve the matter within 30 days, it will be referred to the CEO of Recipient and an Executive Director or equivalent of Discloser for resolution. Despite the dispute, Recipient must continue to pay all Fees.

Agency

65. Neither party is an agent, representative or partner of the other party, and must not make representations to the contrary.

Authority to Execute

66. Each party represents that it executes this Agreement by its duly authorised signatory, and the other party is entitled to rely on that execution to bind the party.

Governing Law

67. If Recipient is a Victorian State government department, this Agreement is not intended to bind or create legal relations between the parties, but the parties intend to comply with it. Otherwise, this Agreement is governed by the law of Victoria and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria.

Executed as an Agreement

Signed for the Secretary to the Department of Transport and Planning on behalf of the State of Victoria by their authorised officer:	Signature: Name: Title: Date:
Signed by Recipient by its duly authorised signatory with authority to bind Recipient:	Signature: Name: Title: Date:

Part 2 – Definitions and Interpretation

Definitions

Admin Contact means an employee or contractor of Recipient with administrative responsibilities in relation to this Agreement, identified as such in the **Attachment**.

Alternate Org Rep means the employee of Recipient with responsibility to fulfil the functions of the Org Rep when the Org Rep is on leave, identified as such in the **Attachment**.

Audit Report means a completed report responding to the relevant Audit Schedule.

Audit Schedule means the audit requirements supplied by Discloser to the Org Rep each year.

Audit Year means the Financial Year immediately preceding the Audit Report due date.

Australian Entity means a legal entity or partnership incorporated or headquartered in Australia, or a sole trader who is resident in Australia, and includes a department or agency forming part of the government of Australia or of one of its States or an Australian local government.

Authorising Provision means the sub-section of s 90K *Road Safety Act 1986* (Vic) specified as such in the **Attachment**.

Base Service means the service comprising access to the Information by the Means as in place between Discloser and Recipient at the start of this Agreement.

Business Day means a weekday that is not a public holiday in the Recipient's head office location.

Business Hours means between the hours of 9am and 5pm on a Business Day.

Cyber Attack means suspected, potential or actual unauthorised access to the Information or to a Recipient computer system, including access by external malicious actors or malicious / accidental actors internal to the Recipient to any database, email system, server, data storage device or mobile device where the Information may be stored or accessed, and includes a ransomware attack.

Data Matching means the bringing together of at least two data sets from different sources and the comparison of those data sets with the intention of producing a match.

Destroy means, in relation to:

- digital records containing Information: irreversible destruction consistent with current protective security standards and GOP (such as physical destruction of storage media or reformatting if it can be guaranteed that the process cannot be reversed); and
- physical records containing Information: disposal consistent with current protective security standards and GOP, such as via a secure document destruction service or class B shredder,

such that the Information cannot be re-assembled to enable identification of individuals and cannot be re-used for any purpose.

Discloser Contact means the employee of Discloser identified as such in the **Attachment**.

Discloser Executive Representative means the executive of Discloser identified as such in the **Attachment**.

Discloser Online Contact means the employee of Discloser identified as such in the **Attachment**.

Discloser Risk Framework means the DTP Risk Management Framework (February 2023) or any document replacing that framework.

Employee means a natural person who is an officer, employee or contractor of Recipient or a Subcontractor (and if Recipient is part of a university, includes honorary academics and graduate students of that university if they are accessing the Information for a research purpose only).

Executive Representative means a senior executive of Recipient (generally at Director level or above) with oversight responsibilities in relation to this Agreement, identified as such in the **Attachment**.

Fees means the fees payable by Recipient for the Base Service as set out or referenced in the **Attachment** plus any other fees permitted to be charged under this Agreement.

Financial Year means the 12-month period commencing on 1 July and ending 30 June.

Genuine Operational Need refers to using the Information to perform a function consistent with the Purpose.

GOP means good operating practice, namely compliance with applicable laws and with the standard of practice which would reasonably be expected of a competent and prudent data recipient.

HCF Certified means a facility or service certified under the Commonwealth government's Hosting Certification Framework, as amended or replaced:

<https://www.hostingcertification.gov.au/certified-service-providers>.

Incident Rectification Report has the meaning given in Schedule 3.

Incidental Use (in relation to an Employee) is briefly sighting the Information as part of other duties and not to perform a function central to the Purpose (such as where an Employee undertaking mail delivery or IT administration sights the Information in passing), and includes audit and legal activities and infringement processing.

Information means Discloser vehicle registration and/or driver licensing information specified as such in the **Attachment**.

Integrity Issue means a reasonable suspicion that the Nominated Person has been engaged at any time in deliberate misuse of Information, deliberate non-compliance with this Agreement, fraud, corruption, organised crime, other criminal activity, or behaviour that suggests or evidences poor character.

Intellectual Property Rights includes all present and future copyright and neighbouring rights, all proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, confidential information (including trade secrets and know how), registered designs, circuit layouts, and all other proprietary rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

Investigative Access means Business Hours access to any premises where the Information is stored or used by Recipient, including access to Subcontractor premises, and assistance with accessing computer systems used to access or store the Information, including Subcontractor systems.

Investigative Agency means a department, authority or agent of a State or Federal Government that undertakes law enforcement activities.

Log means a record (maintained manually or by Recipient's computer system) identifying each request for Information, specifying the date, Nominated User, request, and reason.

Means refers to the means for providing Information specified in the **Attachment**.

Nominated Person means a Nominated User or a Nominated Viewer.

Nominated User is an Employee who is authorised by Recipient to access Information in accordance with this Agreement.

Nominated Viewer is an Employee who does not directly access Information but may view or handle it consistent with the Purpose (excludes Incidental Use) and includes the Executive Representative.

Novel Data Technology means an automated or algorithmic process ingesting personal data, such as automated decision making, artificial intelligence, robotic process automation, biometric identification etc.

Online Access means access to Discloser's VRIS or DLS database using the Online Service.

Online Access Terms means the terms in **Schedule 2**.

Online Service means software and communications protocols through which Information is accessed by Recipient from Discloser's databases by electronic means, including via API.

Org Rep means the employee of Recipient with primary responsibility for managing compliance with this Agreement, identified as such in the **Attachment**.

OAIC means Office of the Australian Information Commissioner.

OVIC means Office of the Victorian Information Commissioner.

Personal Data means data from which an individual's identity is apparent or can reasonably be ascertained and includes de-identified data if it is at risk of being re-identified in the context of the Purpose.

Premium Product means optional access to the Information in a premium way (such as by online connection, improved online connection (including without limitation, via API), or a more convenient data format for ingestion) or access to additional Information or new products, at higher fees than the Base Service. As any Premium Product is purely optional, the applicable fees may exceed regulated rates.

Privacy Laws means Part 7B of the *Road Safety Act 1986* (Vic) and:

(a) the *Privacy and Data Protection Act 2014* (Vic);

(b) the *Health Records Act 2001* (Vic);

(c) the *Privacy Act 1988* (Cth) (and if the exemption in s 7B(5) of the *Privacy Act 1988* (Cth) applies to Recipient's acts and practices in relation to the Information, then those provisions of that Act that would apply but for that exemption, except to the extent that the Information Privacy Principles and any applicable code of practice apply to those acts and practices under s 17 of the *Privacy and Data Protection Act 2014* (Vic));

(d) other jurisdictional laws and binding governmental requirements relating to the protection of Personal Data, including those applying to the Information's storage location, and new privacy laws and binding governmental requirements applicable to the Information.

Project Protocol has the meaning given in clause 62.

Public Records Legislation means the *Public Records Act 1973* (Vic) and, where applicable, the *Freedom of Information Act 1982* (Vic), *Privacy and Data Protection Act 2014* (Vic), *Evidence Act 2008* (Vic), *Crimes Act 1958* (Vic) and *Electronic Transactions (Victoria) Act 2000* (Vic).

Purpose has the meaning given in the **Attachment**.

Recipient means the party identified as such in the **Attachment**.

Recipient Information means information that can be used to identify an individual that Recipient provides to Discloser for or in connection with accessing Information.

Rectification Report has the meaning given in clauses 28-29.

Regulator Incident Notification Form means either the Incident Notification Form published on OVIC's website, as updated from time to time (<https://ovic.vic.gov.au/resource/ovic-incident-notification-form/>) or if Recipient is bound by the *Privacy Act 1988* (Cth), it may choose to use the Notifiable Data Breach Form published by OAIC instead.

Register means an electronic register of Recipient's Nominated Persons (in Excel format or equivalent).

Required by Law means that disclosure of the Information to a third party is specifically required under subpoena, warrant, discovery, notice to produce, court order, legislation or similar mandatory legal process.

Security Controls means the controls in **Schedule 1**.

Security Incident means:

- Any suspected, potential or actual unauthorised access, modification, use, disclosure, loss of or interference with Information by Recipient (or its Employee) or its Subcontractors (or Subcontractor Employee); or
- any suspected, actual or potential misuse or theft of, or potential Cyber Attack against, the Information accessed or

stored by Recipient (or its Employee) or its Subcontractors (or Subcontractor Employee) (and includes any reasonable third-party complaint of such an occurrence), and any event affecting the integrity, security, confidentiality or availability of the Information shared under this Agreement (including a ransomware attack).

Security Incident Notification means a notification of a Security Incident to be given by Recipient to Discloser as required under clause 38 and in accordance with the Security Incident Response.

Security Incident Response means the process in **Schedule 3**.

Security Representative means a suitably qualified employee of Recipient with responsibility in relation to this Agreement for compliance with Security Controls and managing Security Incidents, identified as such in the **Attachment**.

SOPs means standard operating procedures or work instructions designed to operationalise this Agreement and ensure that Nominated Persons are aware of its requirements.

Subcontractor means a legal person or entity subcontracted to perform any obligation of the Recipient under this Agreement (and includes the subcontractor of such subcontractor) but does not include a government agency that is a legislated service provider or an infringement/fines enforcement agency.

TPRM means a third-party risk management assessment, generally a series of questions to be answered by Recipient's technical personnel to assist Discloser in evaluating Recipient's information security maturity.

Training means the online Employee training notified to Recipient by Discloser, from time to time.

User ID means a user access code issued to a Recipient or Subcontractor Employee by or with the consent of Discloser to enable Online Access.

VPDSS means the Victorian Protective Data Security Standards issued under the *Privacy and Data Protection Act 2014* (Vic).

Interpretation

Unless expressed to the contrary, in this Agreement:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) 'includes' and 'including' are not words of limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it; and
- (f) a reference to:
 - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation; and
 - (iii) any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

Schedule 1: Security Controls

1. Recipient must ensure that it and its Subcontractors' policies, compliance and maturity in relation to the Security Controls in this Schedule are demonstrably subject to continuous improvement, in line with GOP and any reasonable expectations of Discloser, as advised in writing from time to time. Recipient must ensure that each of its Subcontractors comply with these Security Controls as though they were the Recipient. Recipient and its Subcontractors must also comply with any additional security controls noted in the **Attachment**.

Standards

2. In relation to information security practice, compliance with GOP requires that the Recipient achieve by **30 June 2025** and maintain at least one of the following standards, as assessed by an external auditor:
 - a) The Essential 8, Maturity Level 2 or higher;
 - b) Fulfilment of Standards 4, 5, 8, 10 and 11 of VPDSS;
 - c) A SOC 2 Type II certification; and/or
 - d) AWS, Office 365 or Azure Security Score of at least 85%, if Information will be accessed, used or retained in the relevant platform.

Evidence of this will be required to be provided and compliance assessed in the FY26 IPA audit and subsequent audits.

Policies and Procedures

3. Recipient must have policies that meet the obligations under this Agreement and cover the following areas, which are approved, published internally and implemented and distributed to its Employees (**Policies**):
 - *Information Security Policy*: Requirements for employees and Subcontractors regarding maintaining the confidentiality, integrity and availability of the Information.
 - *Acceptable Use Policy*: Requirements for the acceptable use of ICT systems.
 - *Access Control Policy*: Requirements regarding identity and access management controls (ie role-based access and least privilege access) and multi-factor authentication, as applicable.
 - *Asset Management Policy*: Requirements for an asset register for all device IPs used to access Information, including ownership and classification.
 - *Business Continuity and Disaster Recovery Plans*: Requirements regarding business disruption and disaster recovery, including formal testing of recovery plans at least twice per year.
 - *Information Management Policy*: Requirements regarding classification, labelling, management, handling of data and its destruction.
 - *Security Incident Management Policy*: Requirements for how security events are identified, managed and closed, with continuous improvement learning communicated to key stakeholders. This should include requirements for data breach response and notification.
 - *Risk Management Policy*: Requirements for how risk is identified, assessed and managed, including third-party risk, ensuring compliance with legislative and regulatory obligations.
4. Recipient must have a procedure or SOPs in place to ensure that Discloser will be notified of any security incident in compliance with the Security Incident Response (**Schedule 3**).

Roles and Access

5. Recipient must have assigned functions, roles and responsibilities in place to manage access to and protect the confidentiality and integrity of requested Information.
6. Recipient must screen all Nominated Users to ensure their eligibility, suitability and integrity for the role and apply appropriate vetting checks. Recipient must provide its Nominated Users with appropriate privacy and security training and awareness in relation to the safe handling, access and use of the Information, and before access to the Information is granted to those users.
7. Recipient must have logical access controls in place to ensure that only Nominated Users with a Genuine Operational Need to access the Information are able to do so. Recipient must have processes to manage the lifecycle of users accessing the Information such that access for Employees leaving their role is revoked within 24 hours, and the list of Nominated Users must be reviewed at least every 3 months according to role-based access / need-to-know / least privilege access.
8. Recipient must ensure that its Employees are assigned unique user IDs when accessing electronic documents containing the Information and strong password controls (password length, password complexity, password rotation and logout on repeat login failures) are in place. Scrutiny of the user logs should be part of Recipient's 'business as usual' processes, and any indication of inappropriate user behaviour must be investigated under those processes, with notification of any Security Incident made to Discloser in accordance with **Schedule 3**.

System Security

9. Recipient must have assessed the security control maturity and effectiveness of systems storing, accessing and/or processing the requested Information and have applied standards commensurate with the information security value of the requested Information (at a minimum, commensurate with Official: Sensitive information), consistent with GOP and required Policies referred to above.
10. Recipient must ensure that access to its own business IT system is protected by multi-factor authentication, and Recipient must cooperate with Discloser in the roll out of multi-factor authentication or Single Sign On by the Discloser or its delegate.
11. Recipient must ensure that extracted Information is encrypted at all times when stored, at rest or transmitted using recent standards such as TLS 1.2 or higher.
12. The Information must only be available to authorised users over a private network or virtual private network. This network must be logically segmented from any non-production environments. No Information should be stored or used in any non-production systems.
13. Recipient must log all privileged and standard access to unstructured and structured locations where the Information resides. Alerts must be generated if there is suspicious activity and managed under the Security Incident Response (**Schedule 3**), with notification to Discloser of any possible Security Incident.
14. Recipient should work towards ensuring that all access, downloading, printing and emailing of the Information is logged and monitored through alerting and pro-actively blocked where not required for processing. The need to email the Information should be minimized or removed.
15. Unless otherwise noted in the **Attachment**, personal computers, mobile devices, public cloud storage, open file shares or unencrypted mobile storage (including USB keys) must not be used to hold or transport Information. Access rights must prevent copying of the Information to an unapproved device.
16. Recipient must ensure that systems are in place to ensure that threats and vulnerabilities are detected and promptly remediated, commensurate with agreed timescales suitable to the classification of the Information accessed. This includes but is not limited to installation of anti-malware software, antivirus software, data leakage prevention software, vulnerability scanning, patch management and penetration testing where appropriate. All Extreme findings must be remediated within 48 hours of detection and High findings must be remediated within 5 Business Days of detection. (For the avoidance of doubt, 'Extreme' and 'High' risk levels should be assessed consistently with the Discloser Risk Framework, available on request.)
17. Recipient must ensure that the Information is stored/hosted in Australia in its own business IT systems or in an HCF Certified service (data centre or cloud service). Any Software As A Service platforms used to host the Information must be classified as Low Residual Risk as per the Victorian Government SaaS Security Register or equivalent Third Party Risk Management System. No Information shall be stored in general office areas or home offices or on unmanaged end user devices. Information must not be transferred outside of Australia and must not be accessed from outside of Australia without the prior written consent of Discloser.
18. Recipient must ensure that any cloud platforms used to store the Information have appropriate security control maturity standards and threat defender settings, and must ensure that any such platform is listed in the 'Cloud Platforms' section of the **Attachment**.

Physical Security

19. Recipient must have appropriate physical security controls in place to mitigate the risk of unauthorised access to buildings and rooms (such as zone-based controls) where the Information is held or used. Recipient must inform Discloser of any breach of physical security or any incident that, but for mitigating action, could have escalated into or resulted in a Security Incident.
20. Other than as necessary for customer invoicing, the use of hard copies of the Information is strongly discouraged. Nominated Persons using hard copies of the Information must keep those documents secure, including through compliance with a clean desk policy.

Lifecycle Management

21. Recipient must securely Destroy all electronic records and hard copy documents in keeping with the classification of the Information when the Information is no longer legally required to be retained. Recipient must obtain written confirmation from 3rd parties regarding compliance with this obligation. As part of GOP, Recipient is strongly encouraged to implement a regular purging cycle to ensure Information is not retained longer than necessary.
22. If Recipient receives bulk transfers of Information, it must Destroy each such bulk Information file and any copies of that file once there is no longer a Genuine Operational Need to retain it or 90 days after receipt, whichever is shorter. This does not apply to the Information that has been ingested into individual customer files, eg for law enforcement.
23. Recipient must ensure that hard copy documents containing the Information are disposed of using industry standard methods such as secure containers when no longer required (consistent with the Commonwealth's Protective Security Policy Framework and applicable public records legislation, if relevant).
24. Recipient must not store, ingest or use Discloser unstructured data (txt, csv, etc.) into a structured database and/or any application managed and maintained by Recipient and/or Subcontractor, without the prior written consent of Discloser. Such arrangements may be subject to a separate security assessment of Recipient's infrastructure.

Subcontractor Use

25. In relation to its Subcontractors, Recipient must monitor, review, validate and update the information security requirements of its Subcontractor contracts to ensure they comply with this Agreement and GOP, and must also ensure that those contractual arrangements include appropriate security controls upon completion or termination, including in relation to Destroying the Information.

Schedule 2: Online Access Terms

1. Recipient must ensure that all its Employees with Online Access are listed as Nominated Users in its Register, and only current Nominated Users apply to Discloser for Online Access.
2. Recipient must comply, and ensure that each of its Nominated Users with Online Access complies, with any instructions, directions, policies, procedures and standards Discloser requires in relation to the use of the Online Service, including without limitation relating to:
 - (a) appropriate equipment or software to use the Online Service;
 - (b) security;
 - (c) protection of Information or intellectual property of Discloser;
 - (d) verification, protection or security of a Nominated User's identity and any User ID; and/or
 - (e) use of the Online Service.
3. Recipient must ensure that each Nominated User with Online Access:
 - (a) is aware of his or her User ID;
 - (b) keeps his or her User ID confidential;
 - (c) only uses his or her own User ID to use the Online Service;
 - (d) is only able to use the Online Service via the User ID;
 - (e) logs out of the Online Service each time they cease using it;
 - (f) is aware not to leave their computer unattended when logged on to the Online Service;
 - (g) is aware of appropriate use of the Information, including the requirement not to access Information relating to themselves, family members or friends;
 - (h) does not take screenshots of the Online Service, except in accordance with Recipient business practices;
 - (i) does not use any personal mobile device to access or use the Online Service or store any Information;
 - (j) does not access, use or disclose any marine or boat information contained in the Online Service (such as, by not selecting plate number or plate type "B" or "5" on VRIS or VRT);
 - (k) complies with all instructions from Discloser; and
 - (l) otherwise complies with these Terms.
4. Recipient must ensure that the Online Service is protected at all times from unauthorised access, loss, use or misuse, damage or destruction by any person.
5. Recipient must not copy any part of Discloser's database to, or store any part of that database on, its own server (this does not include search extracts or search reports).
6. Recipient must not modify, copy, reverse engineer or scrape the whole or any part of the Online Service.
7. Discloser will send Recipient regular monthly reports detailing Online Access by its Nominated Users and the Org Rep will be required to review each such report and confirm that the usage complied with this Agreement. The Org Rep must provide such a confirmation to Discloser, in the format specified by Discloser, within 30 days after provision of each report.
8. Discloser may request that spot checks of data access records (on a one-off or ongoing basis) be undertaken in respect of any Online Access to confirm compliance with this Agreement. Recipient must use all reasonable endeavors to comply with such a request within a reasonable timeframe, and in accordance with Discloser's reasonable requirements.
9. Recipient must enable and retain security, access and audit logs to supporting IT systems (ie the business IT systems by means of which the Information is accessed) for at least two years on segregated read-only storage, with the previous 30 days of logs retrievable within 24 hours, and the previous 2 years of logs retrievable within 48 hours when required to respond to an incident or upon request by Discloser.
10. As part of its ad hoc audit program in clause 40, Discloser reserves the right to perform (either directly or through a third party) a cybersecurity audit in relation to the Recipient's Online Access, including security / penetration / vulnerability / denial of service testing using a methodology of the Discloser's choice, at Discloser's expense. On request, Recipient agrees to provide Discloser with the results of any prior audits or security / penetration / vulnerability / denial of service testing it has undertaken in relation to relevant systems.
11. If Recipient proposes to make or makes changes to its environment such that the Online Service needs to be modified by Discloser or its delegate to meet Recipient's business needs, Recipient agrees that any such modification will be at its expense. Discloser will provide an itemised quotation for the costs of the proposed modification and any additional terms. If Recipient accepts the quotation and fails to comply with it (including payment terms), the Discloser may terminate this agreement by giving 30 days' written notice.

Note: The deliberate use of Online Access to gain unauthorised access to Information is likely to contravene criminal laws and serious penalties apply.

Schedule 3: Security Incident Response

If Recipient or any Employee suspects or is advised that there may have been a Security Incident:

- A. Recipient must take (including by ensuring any impacted Subcontractors take) all reasonable steps to immediately contain the suspected Security Incident (e.g. stop the unauthorised practice, recover the records, shut down the system etc); and
- B. Recipient must promptly undertake or have appropriate Employees undertake (including by ensuring any impacted Subcontractors promptly undertake) a Security Incident Assessment, as outlined below.

Security Incident Assessment

1. The Security Incident Assessment must assess whether Information has been used, disclosed or accessed in a manner inconsistent with the Purpose. If it has, Recipient must provide Discloser with a Security Incident Notification in accordance with the timeframe specified below. Any Security Incident Notification under the Security Incident Response must include the particulars of the Security Incident and Recipient's (proposed) response, including immediate containment and risk minimisation measures, as appropriate.
2. The Security Incident Assessment must:
 - a) be undertaken reasonably: the standard is how a reasonable and impartial person would assess the situation.
 - b) be completed as quickly as possible and within 10 Business Days maximum.
 - c) not delay the taking of appropriate remedial action to minimise the extent of the Security Incident.
3. The Security Incident Assessment should cover whether the information was lost or stolen or misused. If there may be criminal activity involved, the police should be notified as soon as possible.
Note: In this case, Recipient must provide advance warning to Discloser, by email marked "Urgent" or telephone, before the notification to police. The advance warning does not need to be a formal Security Incident Notification.
4. The Security Incident Assessment should identify who or what was responsible for the Security Incident, plus any Employee involved in the Security Incident, and whether any identified Employee has been involved in any previous Security Incident. Such Employee information should not be included in the Security Incident Notification.
5. Discloser may contact the Security Representative, seeking information about the Security Incident, including information about Employee involvement in the Security Incident on a confidential basis, and the Security Representative must cooperate. Recipient is responsible to ensure that its contractual relationships with Subcontractors allow this provision of information to Discloser. Recipient acknowledges that Discloser may apply Information access restrictions or other technical controls to individual Employees, if Discloser considers that is appropriate.
6. If Discloser rates the information as 'Official: Sensitive' or higher and Recipient is required to notify OVIC or OAIC, Recipient must complete a Regulator Incident Notification Form with as much detail as possible including all planned rectification and notification activities and provide it in draft form to Discloser within 10 Business Days after the Security Incident. Recipient must not notify the relevant regulator until after providing the draft notice to Discloser (preferably at least 5 Business Days after if regulator timeframes allow), or until Discloser gives written consent to Recipient to proceed, whichever is sooner.
7. Following OVIC or OAIC notification, should the regulator contact the Recipient or its Subcontractor direct, the Recipient must immediately notify the Discloser by email of the contact and provide the details of the regulator contact and any requests made, and provide the draft response to the Discloser within 3 Business Days of the date the relevant regulator makes direct contact. Recipient must not respond to the relevant regulator until at least 5 Business Days after providing the draft notice to Discloser, or until Discloser gives written consent to Recipient to proceed, whichever is sooner.
8. Recipient (including its Subcontractors) must be careful not to destroy any evidence relating to the potential Security Incident.
9. Subject to clause 39, if Recipient or Discloser consider that customer notification is warranted, they will consult on the format and timing for that notification, and act in good faith to reach an agreed approach. Recipient will use reasonable endeavours to ensure that it and its Subcontractor(s) act consistently with that agreed approach.

Timeframe for Security Incident Notification

10. If the Information was stolen, or may be affected by a Cyber Attack, or if a large number of Information records containing Personal Data are affected (>100), the Org Rep must email the Discloser Contact a Security Incident Notification within **24 hours** of first becoming aware of the relevant fact or incident. Recipient must promptly comply with any directions from Discloser in response to that Security Incident Notification.
11. Otherwise, Recipient should take appropriate remedial action and investigate the incident and provide Discloser with a Security Incident Notification **within 10 Business Days**.

Cyber Attack

12. In the event of a Cyber Attack, Recipient must allow (and must ensure that its Subcontractors allow) Discloser and other government bodies such as Digital Victoria (CIRS), OVIC, ACSC and OAIC, and third parties nominated by Discloser to have full visibility of and be involved in incident response, incident analysis, incident recovery and post-incident reviews, as well as request and receive copies of breached data sets.
13. Discloser reserves the right to recover from Recipient the cost of the involvement of any of these parties, or any remediation activity that Discloser reasonably chooses to undertake as a result of the Cyber Attack.

14. Recipient must take all reasonable steps to minimize the impact of the Cyber Attack and to prevent a continuation, expansion or repeat of the Cyber Attack.

Incident Rectification Report

15. Recipient must provide Discloser with an Incident Rectification Report within 60 days after a Security Incident Notification, outlining its progress in rectifying issues raised in the Security Incident Notification (and must continue to provide Incident Rectification Reports at intervals of 60 days until all issues raised in the Security Incident Notification are rectified to Discloser's satisfaction).

ATTACHMENT

RECIPIENT DETAILS	
Recipient	City of Port Phillip
Recipient ABN	21 762 977 945
Purpose (clause 1)	The prevention, detection, investigation and prosecution of offences and enforcement of penalties in relation to parking, traffic, litter, food safety, smoking, public conduct, animal control, animal cruelty, municipal property, building, fire prevention, abandoned vehicles and related local matters, where the council is the law enforcement agency, including the preparation for and conduct of related proceedings or the protection of public revenue.
Executive Representative (clause 11)	Name: Brian Tee Title: General Manager City Growth and Development Email: brian.tee@portphillip.vic.gov.au
Org Rep (clause 11)	Name: Nellie Montague Title: Manager Safety and Amenity Email: nellie.montague@portphillip.vic.gov.au
Security Representative (clause 11)	Name: Ashley Johnson Title: Head of ICT Strategy and Information Email: ashley.johnson@portphillip.vic.gov.au
Alternate Org Rep (clause 11)	Name: Bill Mulholland Title: Coordinator Appeals Administration Email: bill.mulholland@portphillip.vic.gov.au
Admin Contact (optional, clause 11)	Name: Melissa Veljovic Title: BSO Appeals Administration Email: melissa.veljovic@portphillip.vic.gov.au

SUBCONTRACTOR DETAILS (clause 8)			
Name	Orikan Australia Pty Ltd		
ABN	73 075 154 755		
Head office address	Level 6 30 Convention Centre South Wharf, Vic, 3006		
Contact person	Mark Shields		
Information accessed	Vehicle registration information		
Tasks undertaken	Parking infringement administration, systems and support		
Location of staff accessing information	As above		
Location of Subcontractor IT cloud systems/databases	As above		
Approximate number of staff accessing Information	70		

CLOUD PLATFORMS (Schedule 1)			
Name of cloud platform and type of service	Microsoft Azure & Amazon Web Service		
What Information will be stored on that platform?	Vehicle owner name, address and driver license number		

DISCLOSER USE ONLY			
Information (clause 1)	Vehicle Registration & Driver License Number Photos: Photo access authorisation requires an application to vre@roads.vic.gov.au , stating the reason. Any request for driver licence photos must come from a Nominated User who has photo access authorisation.		
Authorising Provision (clause 3)	s.90K(g) Road Safety Act 1986: to a law enforcement agency		
Permitted Data Matching (clause 4(i))	N/A		
Term (clause 50)	1 June 2024 – 30 June 2029		
Means (clause 2)	Standard:	Email, text file	
	Online (if applicable):	VRE/VROS	
Nominated User Training (clause 24)	Training: All persons referenced in clause 24 must complete the Discloser's Standard E-learning. In addition, each Org Reg and Alternate Org Rep must complete the Discloser's E-learning for Org Reps. Frequency: Training must be completed before first access to Information (or first assuming the role, as appropriate) and again at least once each Audit Year, with compliance assessed in the audit. The Org Rep and Alternate Org Rep must complete both trainings at least once each Audit Year.		
Fees (clause 48)	Requests:	Regulated rate, or if council: \$4.25 per text file	
	Online Access (if applicable):	N/A	
Annual Fee Adjustment (clause 48) (All fees will be adjusted each 1 July)	Adjustment: Regulated Fees increase automatically. All other Fees will be escalated by CPI (All Groups Melbourne, March annual increase) each 1 July. Note: Discloser reserves the right to increase non-regulated Fees (beyond escalation) on 1 July each year, subject to written justification of an increase in the costs incurred, and the provision of 90 days' notice.		
Exemptions (clause 60)	N/A		
Additional security controls (Schedule 1)			
Discloser Contact	Name: Zandr� de Kock Title: Operations Manager, Data Sharing Address: 1 Spring St, Melbourne VIC 3000 Email: confidentiality.agreement@transport.vic.gov.au		
Discloser Executive	Head of Data Sharing, Regulatory Programs & Services		

Representative (clause 64)		
Discloser Online Contact	Online Access (VRE/VROS) Name: Catherine Brancolino Title: Team Leader R&L Searches Email: vre@roads.vic.gov.au	Online Access (VRIS/DLS) Email: confidentiality.agreement@transport.vic.gov.au

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



13.2

POLICY COMPLETION DATES

EXECUTIVE MEMBER: JOANNE MCNEILL, EXECUTIVE MANAGER, GOVERNANCE AND ORGANISATIONAL PERFORMANCE

PREPARED BY: JACKY BAILEY, HEAD OF CORPORATE PLANNING

1. PURPOSE

- 1.1 To seek approval to extend the expiry date for policies that have expired, or will expire before their scheduled renewal date.

2. EXECUTIVE SUMMARY

- 2.1 As part of the ongoing cleanup and improvement of the Policy and Strategy Register, the Corporate Planning team has identified six policies that have a completion date or sunset date that will not be achieved. ie the policy has not (or will not) be renewed before it expires.
- 2.2 We are seeking approval from Council to extend the affected policies.
- 2.3 A number of process improvements have been implemented to ensure this situation does not arise again.

3. RECOMMENDATION

That Council:

- 3.1 Approves to extend the expiry date of the following policies:
- 3.1.1 Community Flagpole and Banner Scheme Schedule to July 2024
 - 3.1.2 Every Child, Our Future Children's Services Policy to September 2026
 - 3.1.3 Footpath Trading Fee Policy to May 2025
 - 3.1.4 Fraud and Corruption Awareness and Prevention Policy to September 2024
 - 3.1.5 Port Phillip Collection Policy to July 2025
 - 3.1.6 Site Contamination Management Policy to July 2025

4. KEY POINTS/ISSUES

- 4.1 As part of the ongoing cleanup and improvement of the Policy and Strategy Register, the Corporate Planning team has identified six policies that have a completion date or sunset date that will not be achieved. ie the policy has not (or will not) be renewed before it expires. These are summarised in the table below.

Policy Name	Responsible Department	Original Adoption Date	Expiry Date	Proposed Renewal Date
Community Flagpole and Banner Scheme Schedule	Governance and Organisational Performance	May 2018	Jun 2021	Jul 2024
Every Child, Our Future Children's Services Policy	Family Youth and Children	Apr 2019	Sep 2024	Sep 2026

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



Footpath Trading Fee Policy	Safety & Amenity	May 2019	Jun 2023	May 2025
Fraud and Corruption Awareness and Prevention Policy	Governance and Organisational Performance	May 2020	May 2024	Sep 2024
Port Phillip City Collection Policy 2019	City Growth and Culture	Jul 2019	Jul 2022	Jul 2025
Site Contamination Management Policy 2020 - 24	Property & Assets	Jun 2020	Jul 2024	Jul 2025

- 4.2 The **Community Flagpole and Banner Scheme Schedule** defines when different flags and banners will be displayed on Council flagpoles, etc. This will be split into two documents, to be considered by Councillors concurrently on 3 July: (1) Civic and Community Flagpole Protocol, and (2) Community Flagpole, Banner and Lighting Scheme.
- 4.3 The **Every Child, Our Future Children's Services Policy** describes Council's role in children's services and what we will do to support the wellbeing and development of children and families in our community. Implementation of this policy was significantly delayed because of COVID. It is therefore recommended that we continue implementing the current policy, including regular consultation with key stakeholders and providing detailed annual reports to Councillors.
- 4.4 The **Footpath Trading Fee Policy** determines the fee structure for different types of footpath trading in different precincts. It was initially scheduled to be considered by Councillors in August, but further analysis has indicated it requires a deep review, including benchmarking and analysis of each option to be considered, and community consultation. It is therefore recommended that this be extended to allow time for the work.
- 4.5 The **Fraud and Corruption Awareness and Prevention Policy** ensures City of Port Phillip operates in a way that minimises the risk of fraudulent and corrupt activity occurring. Work is already underway to update this policy, and the updated policy will be presented to this Council prior to caretaker period commencing.
- 4.6 The **Port Phillip City Collection Policy** articulates the context and principles for managing the Port Phillip City Collection, which includes contemporary and historic art, heritage furniture, photographs, memorials and monuments, public art and civic material. It is recommended this be considered by the incoming Council.
- 4.7 The **Site Contamination Management Policy** sets out the City of Port Phillip's compliance requirements to effectively and proactively identify contaminated land and manage the risks associated with the contaminated land over which it has management or control. It requires a comprehensive review, and it is therefore recommended the existing policy be extended to allow time for this work.
- 4.8 The following process improvements have been implemented, to ensure policies are updated before they expire in future:
- 4.8.1 The policy and strategy register has been comprehensively reviewed and updated, to ensure it is complete and accurate.

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



- 4.8.2 Proactive communication will now ensure policy owners are notified 18 months before their policy is due to expire.
- 4.8.3 A policy custodian has been nominated, with responsibility for managing and maintaining the policy and strategy register, policy bookcase and ECM policy records.
- 4.8.4 A policy 'toolkit' is being developed to help policy owners across the organisation understand and fulfil their responsibilities.
- 4.8.5 Expiry dates or sunset clauses will only be included in policies if it is legislatively required, or there is another compelling reason. Otherwise, policies will be subjected to a regular review cycle, but not expire. Expiry dates create unnecessary risk because if something out of our control prevents the replacement policy from being developed and endorsed on time, it becomes unclear whether the old (expired) policy is still in effect, or CoPP is operating without a policy. A well-managed review cycle creates assurance that policies are being actively managed and reviewed, without this risk.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Community engagement will be an important component of renewing two of the identified policies: *Every Child*, *Our Future Children's Services Policy* and *Footpath Trading Fee Policy*.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 It is important we formally extend these policies, so as to avoid any implication or misunderstanding that Council is operating without the relevant policies in place.

7. FINANCIAL IMPACT

- 7.1 None. Renewing policies is part of Council's business as usual operations.

8. ENVIRONMENTAL IMPACT

- 8.1 None

9. COMMUNITY IMPACT

- 9.1 The identified policies all have direct or indirect community impact, which is why it's important they are formally extended and properly reviewed/renewed.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 This supports the 'Well-Governed Port Phillip' strategic direction.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

Policy Name	Current status	Next steps
Community Flagpole and Banner Scheme Schedule	Document is being split into two: 1) Civic and Community Flagpole Protocol, and (2) Community Flagpole, Banner and Lighting Scheme	To be considered by Councillors in July

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



Every Child, Our Future Children's Services Policy	Implementation commenced approximately 2 years late because of COVID	Continue implementation, and delay the review/renewal
Footpath Trading Fee Policy	Planning underway for a deep review of the policy	Revised project plan to be submitted, and implementation phase to commence
Fraud and Corruption Awareness and Prevention Policy	Review underway	Updated policy to be considered by Council before caretaker period commences
Port Phillip City Collection Policy 2019	Internal consultation and planning underway	Recommend this be presented to the new Councillors as soon as practical after the election.
Site Contamination Management Policy 2020 - 24	Risk assessment and legislative desktop review to commence	Scope of change to be defined, and project plan established

11.2 COMMUNICATION

11.2.1 The policy and strategy register will be updated with the new expiry dates. The Corporate Planning Team will provide ongoing support to ensure policy owners are able to renew their policies prior to the new expiry dates.

12. OFFICER MATERIAL OR GENERAL INTEREST

12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

ATTACHMENTS

Nil

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



13.3 LIFTING OF THE CONFIDENTIALITY STATUS OF INFORMATION CONSIDERED BY COUNCIL IN CLOSED MEETINGS OF COUNCIL

EXECUTIVE MEMBER: JOANNE MCNEILL, EXECUTIVE MANAGER, GOVERNANCE AND ORGANISATIONAL PERFORMANCE

PREPARED BY: REBECCA PURVIS, SENIOR COUNCIL BUSINESS ADVISOR

1. PURPOSE

- 1.1 For Council to consider releasing certain confidential information in relation to decisions made by Council during meetings that were closed to members of the public in accordance with the Public Transparency Policy.

2. EXECUTIVE SUMMARY

- 2.1 The City of Port Phillip's Public Transparency Policy (the Policy) requires Council to receive a regular report listing all decisions made by Council during meetings that were closed to members of the public due to confidentiality reasons under the Local Government Acts 1989 and 2020 (the Act).
- 2.2 This report covers all decisions made by Council at Council and Planning Committee Meetings closed to the public from 2 December 2020 to 6 December 2023. This report recommends making public confidential resolutions together with reports and attachments where appropriate.
- 2.3 Confidential decisions recommended for release are detailed in the confidential **attachment 1** and summarised in the public release table contained in **attachment 2**. The public release table contains a summarised list of confidential decisions recommended for release, and a summarised list of confidential material made public automatically throughout the reporting period by way of a release clause or event.
- 2.4 Some confidential reports, decisions and attachments considered by Council are made public automatically via the inclusion of release clauses in the recommendations. This reduces the need to Council to consider lifting confidentiality of all reports, and reduces the overall number of confidential resolutions.

3. RECOMMENDATION

That Council:

- 3.1 Resolves that the confidential information, as contained in confidential Attachment 1, be deemed to be not confidential pursuant to the Local Government Acts 1989 and 2020, and that this information be publicly released on Council's website.

4. KEY POINTS/ISSUES

- 4.1 Section 66 of the Act allows Council to consider confidential information in meetings closed the public.
- 4.2 The process involves Governance developing and maintaining a list of all confidential information that was considered by the Council and its Planning Committee at meetings that were closed to members of the public. This confidential information is then examined by officers and the relevant Executive Leadership Team member with a view to determining which information currently designated as confidential can now be



recommended to Council to be made public either in full or in part. Officers writing confidential reports are also, where applicable, including in confidential resolutions that the resolution be made public subject to specified conditions being satisfied.

- 4.3 If the recommendation in this report is adopted, there will be a remaining 41 confidential resolutions considered by Council (December 2020 – December 2023) that cannot be made public at this stage as they relate to:

4.3.1 matters that are live issues where Council is still in negotiation with other parties; information that may compromise council in future negotiations; matters that are subject to confidentiality agreements; information that is commercially sensitive and disclosure may prejudice the Council and / or other parties; information that is legally privileged; information that includes personal private information; or

4.3.2 matters which were subject to compulsory conferences conducted under the Victorian Civil and Administration Tribunal (VCAT) Act 1998 which prohibits the release of information discussed at a compulsory conference. To increase transparency whilst maintaining compliance with the VCAT Act, all VCAT decisions in relation to these items have been made publicly available on Council's website.

- 4.4 The details of information proposed to be made public is provided for council's consideration in confidential attachment 1.

- 4.5 Reports with resolutions containing automatic release clauses have resulted in this information already being made public. As of 2024, a new internal process has required all confidential recommendations to include release clauses, where appropriate, to ensure the timely release of confidential information as soon as confidentiality is lifted by an event or trigger. This will result in greater transparency for the community.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 The list of all confidential items compiled by Governance (Attachment 1) was analysed by senior Council officers to determine what confidential information could now be recommended to Council to be released pursuant to the relevant legislation.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 Section 66 of the Act states that any Council Meeting or a Delegated Committee Meeting (e.g. Planning Committee) must be open to members of the public unless certain provisions apply, including the consideration of confidential information.
- 6.2 The VCAT Act 1998 prohibits the public release of any information that was subject to a VCAT compulsory conference. The VCAT Act states that this information must remain private and this has been confirmed by legal advice.
- 6.3 This report is being presented to Council to ensure it remains compliant with the Act and Public Transparency Policy.

7. FINANCIAL IMPACT

- 7.1 This report has no financial impacts on Council.

8. ENVIRONMENTAL IMPACT

- 8.1 This report has no environmental impacts on Council.

MEETING OF THE PORT PHILLIP CITY COUNCIL

1 MAY 2024



9. COMMUNITY IMPACT

- 9.1 Council is committed to upholding transparency by ensuring that its decision making, policy making processes, and information and data used to support these activities, are made publicly available wherever appropriate for the benefit of the community.
- 9.2 The intent of this report is to, where Council is legally able, make public as many of Council and Planning Committee decisions that were made in closed meetings of Council and or the committee.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 The public transparency of decisions made by Council is a key element in achieving a financially sustainable, high performing, well governed organisation that prioritises the community.
- 10.2 This releasing of confidential information aligns with and supports the Public Transparency Policy.
- 10.3 The Public Transparency Policy requires Council to assess confidential information for release to ensure Council Meeting information is regularly reviewed and made available to the community.

11. IMPLEMENTATION STRATEGY



11.1 TIMELINE AND COMMUNICATION

- 11.1.1 Where Council has determined that certain confidential information is now no longer confidential, this information will be made available to the public on Council's website under Council's 'Meetings and Agendas' pages at the relevant year the meeting was held. Text will be placed on the website stating that the resolution, report or attachment that was previously confidential has now been made public.

12. OFFICER DIRECT OR INDIRECT INTEREST

- 12.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

ATTACHMENTS

-  [1. Confidential- Confidential - Detailed release table for Council release](#)
- [2. Public release table - to December 2023](#) 

City of Port Phillip Confidential Council Meetings Decisions		Date From:	1/12/2020
		Date To:	31/12/2023

SCHEDULE OF CONFIDENTIAL INFORMATION TO BE MADE NOT CONFIDENTIAL			
Council Meeting Date	Subject	Reason for Confidentiality	Documents to be made public
2/12/2020	Property lease matter	Private Commercial Information	Resolution can be released.
2/12/2020	Property Matter – South Melbourne Life Saving Club	Private Commercial Information	Report and resolution can be released.
3/02/2021	Provision of landfill services via Metropolitan Waste and Resource Recovery Group	Private Commercial Information	Report and resolution to be released.
5/05/2021	Proposed Extension to Contract 2119 Supply, Installation and Maintenance of parking technology	Council Business Information	Report and resolution to be released.
19/05/2021	The Vineyard Restaurant – Next Steps	Council Business Information Private Commercial Information Information that was confidential under s77 of the Local Government Act 1989	<i>Resolution and attachment 3 of the report released in accordance with the recommendation.</i> <i>Report and attachments to remain confidential.</i>
19/05/2021	Workcover Update and Preferred Insurer	Council Business Information Information that was confidential under s77 of the Local Government Act 1989	Resolution can be released. Report to remain confidential in perpetuity.
16/06/2021	JLT Class Action	Council Business Information	Resolution can be released. Report to remain confidential in perpetuity.
07/07/2021	Multicultural Advisory Committee - Appointment of members for 2021 to 2024	Personal Information	Open Council report with confidential attachment. Attachment can now be released.

City of Port Phillip Confidential Council Meetings Decisions		Date From:	1/12/2020
		Date To:	31/12/2023

SCHEDULE OF CONFIDENTIAL INFORMATION TO BE MADE NOT CONFIDENTIAL			
Council Meeting Date	Subject	Reason for Confidentiality	Documents to be made public
4/08/2021	Community Grants Assessment Panel Reference Committee - Appointment 2021-2023	Personal Information	Open Council report with confidential attachment. Attachment can now be released.
15/09/2021	Urgent Business - Confidential Parking Administration Matter	Legally Privileged Information	Report and resolution can be released.
6/10/2021	Fishermans Bend - Montague Precinct Implementation Plan	Land Use Planning Information	Release report, resolution and attachments.
6/10/2021	Panel recommendation: 39-47 Camden Street, Balaclava	Council Business Information Land Use Planning Information Private Commercial Information	Resolution can be released. Report to remain confidential for future review.
1/12/2021	LGBTIQA+ Advisory Committee - update of terms of Reference and Appointment Committee Members	Personal Information	Open Council report and confidential attachment. Attachment can now be released.
16/02/2022	Fishermans Bend - Funding and Financing Strategy (Proposed Development Contributions Plan)	Private Commercial Information	Release report and resolution.
16/02/2022	Confidential: Danks Street Substation Proposal	Land Use Planning Information	Resolution, report and attachments can be released.
18/05/2022	Interim Kerbside Waste Collection & Recycling Processing Arrangements	Council Business Information	Resolution can be released.

City of Port Phillip Confidential Council Meetings Decisions		Date From:	1/12/2020
		Date To:	31/12/2023

SCHEDULE OF CONFIDENTIAL INFORMATION TO BE MADE NOT CONFIDENTIAL			
Council Meeting Date	Subject	Reason for Confidentiality	Documents to be made public
6/07/2022	Public open space - potential acquisition	Council business information Land use planning information Personal information Private commercial information	<i>Resolution can be released.</i>
20/07/2022	Confidential: Cashless Paid Parking Procurement Exemption	Council Business Information	Report and Resolution to be released.
17/08/2022	Confidential Strategic Property Matter	Council Business Information Land use planning information Private commercial information	<i>Attachment Four to be released as per resolution.</i>
7/09/2022	Strategic Project Delivery	Council Business Information Private commercial information	Release of Report, Resolution and Attachments
6/10/2022	Rupert Bunny Fund Visual Arts Fellowship and Special Program Funding Recommendations	Private Commercial Information	Release of report and resolution.
19/10/2022	Property Development	Council business information Private commercial information	Report and resolution to be released.
16/11/2022	Alma Park Public Toilets - Exceptional Circumstances declared (Procurement Policy)	Private commercial information	Report and resolution can be released.
17/05/2023	Public open space - potential acquisition	Council business information Land use planning information	Resolution to be released with 3.3 redacted. Report to remain confidential in perpetuity.

City of Port Phillip Confidential Council Meetings Decisions		Date From:	1/12/2020
		Date To:	31/12/2023

SCHEDULE OF CONFIDENTIAL INFORMATION TO BE MADE NOT CONFIDENTIAL			
Council Meeting Date	Subject	Reason for Confidentiality	Documents to be made public
21/06/2023	Confidential Notice of Motion - Councillor Marcus Pearl - Potential Acquisition	Council Business Information	Notice of Motion and Resolution to be released.
12/07/2023	Strategic property matter	Council business information Land use planning information Private commercial information Confidential meeting information	Resolution recommended for release. Report to remain confidential in perpetuity.
6/09/2023	Portfolio Contingency Management	Council business information	Resolution recommended for release. The report and attachments contain Council business information and are therefore still confidential.
6/09/2023	Procurement of Waste Compactors - For Internal Waste Collection Services	Private Commercial Information Council Business Information	Resolution recommended for release. The report and attachments contain Council business information and are therefore still confidential.
1/11/2023	Confidential-Aged Care Reforms	Council Business Information	Resolution can be released. The report contains Council business information and is therefore still confidential.

City of Port Phillip Confidential Council Meetings Decisions		Date From:	1/12/2020
		Date To:	31/12/2023

FOR NOTING - SCHEDULE OF CONFIDENTIAL INFORMATION RELEASED DURING REPORTING PERIOD			
Meeting Date	Subject	Reason for Confidentiality	Documents made public
3/03/2021	Local Roads and Community Infrastructure	Council Business Information	Report, resolution and attachments can be released in accordance with the recommendation.
19/05/2021	Cultural Development Fund (CDF) Recovery Grants 2021	Personal Information	Attachment made public in accordance with the recommendation.
16/06/2021	Older Persons Advisory Committee - Renaming of Committee, Updated Terms of Reference and Appointment of Members for 2021 to 2024	Personal Information	Attachment made public in accordance with the recommendation.
28/06/2021	Grant to Port Phillip Community Group to Enter a Sub Lease with Fishemans's Bend Gymnastics Club	Council Business Information	Resolution and Report released in accordance with the recommendation.
18/08/2021	CEO Employment Matters Committee	Council Business Information	Resolution and Report released in accordance with the recommendation.
3/11/2021	St Kilda Pier Landside Integration	Land Use Planning Information	Resolution and Report released in accordance with the recommendation.
3/11/2021	Cultural Development Fund (CDF) Projects Grants 2021/2022 Recommendations	Personal information	Attachment made public in accordance with the recommendation.
17/11/2021	Northport Oval	Private Commercial Information	Decision released in accordance with recommendation. Report and attachments retained as confidential.
6/10/2021	Reappointment of External Member to the Audit & Risk Committee	Personal Information	Resolution and Report released in accordance with the recommendation.
17/11/2021	Community Grants Program 2021-22 Recommendations for Funding	Personal Information	Attachment made public in accordance with the recommendation.
8/12/2021	South Melbourne Market Independent Committee	Personal Information	Resolution made public in accordance with Councils recommendation. Report to remain confidential.
8/12/2021	Confidential - Proposed Relocation of the 2021 MPavilion into the Montague Precinct of Fishermans Bend	Private Commercial Information	Report, resolution and attachments made public in accordance with Councils decision.
2/02/2022	Audit and Risk Committee -	Personal Information	Report and resolution made public in accordance with

City of Port Phillip Confidential Council Meetings Decisions		Date From:	1/12/2020
		Date To:	31/12/2023

FOR NOTING - SCHEDULE OF CONFIDENTIAL INFORMATION RELEASED DURING REPORTING PERIOD			
Meeting Date	Subject	Reason for Confidentiality	Documents made public
	Independent Member Appointment		Council's decision.
6/04/2022	Funding Recommendations and Report 2021/22 Cultural Development Fund	Personal Information	Attachment made public in accordance with the recommendation.
1/11/2023	Love My Place 2023/24 Recommendations for 2023/24 Grants Projects	Personal Information	Attachment made public in accordance with the recommendation.
17/08/2022	CEO Employment Matters - CEO Resignation and appointment of Interim CEO	Personal Information	Resolution released in accordance with 3.4 of the recommendation. Report to remain confidential in perpetuity.
7/12/2022	Appointment of Independent Members to the South Melbourne Market Committee	Personal Information	Resolution released in accordance with the recommendation. Report to remain confidential in perpetuity.
1/02/2023	Appointment of the Independent Chair to the South Melbourne Market Advisory Committee	Personal Information	Resolution released in accordance with the recommendation. Report to remain confidential in perpetuity.
19/07/2023	Independent Review	Legal Privileged Information Private Commercial Information (g(i)) Private Commercial information (g(ii))	This motion was released publicly as directed by Council.
19/07/2023	Cultural Development Fund - Panel Recommendations, Updated Terms of Reference and Objectives/Criteria	Personal Information	Public report. Attachment made public in accordance with the recommendation.
4/10/2023	St Kilda Esplanade Market Strategy, Annual Report, Terms of Reference and Recommendations for the Reference Committee	Personal Information	Public report. Attachment made public in accordance with the recommendation.
15/11/2023	Cultural Development Fund - Festivals and Events Funding Recommendations - Attachments 1 & 2	Personal Information	Public report. Attachment made public in accordance with the recommendation.
15/11/2023	Cultural Development Fund - Projects Grants 2024 Recommendations - Attachment 1	Personal Information	Public report. Attachment made public in accordance with the recommendation.

City of Port Phillip Confidential Council Meetings Decisions		Date From:	1/12/2020
		Date To:	31/12/2023

FOR NOTING - SCHEDULE OF CONFIDENTIAL INFORMATION RELEASED DURING REPORTING PERIOD			
Meeting Date	Subject	Reason for Confidentiality	Documents made public
15/11/2023	Community Grants Program 2023/24 Recommendations	Personal Information	Public report and confidential attachment. Attachment can be released.
16/08/2023	Urgent Business - Confidentiality of Strategic Property Matter	Council business information, Land use planning information, private commercial information, confidential meeting information	Decision made public via media release.



14. NOTICES OF MOTION

Nil

15. REPORTS BY COUNCILLOR DELEGATES

16. URGENT BUSINESS

17. CONFIDENTIAL MATTERS

17.1 *St Kilda Pier Landside Works Upgrade - Budget Update Error!
Bookmark not defined.*

17.2 *Commercial Matter*

RECOMMENDATION

That Council resolves to move into confidential to deal with the following matters pursuant to section 66(2) of the *Local Government Act 2020*:

17.1 St Kilda Pier Landside Works Upgrade - Budget Update

3(1)(a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

Reason: *The information provided within this briefing contains detailed information on:*

- *Approach for project contingency*
- *Approach for project Soil contamination*
- *The procurement approach for the project, including ways to mitigate a failed procurement.*

Releasing this information would reduce Council's negotiation stance if information is released prior to procurement, in October 2024.

17.2 Commercial Matter

3(1)(a) *Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.*

3(1)(e) *legal privileged information, being information to which legal professional privilege or client legal privilege applies;*

3(1)(g)(ii) *private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage*

Reason: *This report will consider commercially and legally sensitive information that could impact Council's ability to manage an ongoing contract. Council will consider what information is to be released publicly.*