

# FINAL REPORT

# Streamlining Live Music Regulation

Change@SA 90-Day Project



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# Table of Contents

<b>EXECUTIVE SUMMARY .....</b>	<b>3</b>
<b>1. Context.....</b>	<b>5</b>
1.1 Background.....	5
1.2 Case for change.....	6
1.3 Current reforms relating to live music regulation.....	7
1.4 Data .....	8
<b>2. Case studies.....</b>	<b>10</b>
2.1. Overview.....	10
2.2 Key lessons learnt from the case studies .....	10
<b>3. Immediate regulatory reforms and recommendations .....</b>	<b>12</b>
3.1 Recommendations .....	12
3.2 Strategic picture of the proposed reforms.....	15
<b>4. Medium to long term systemic opportunities .....</b>	<b>15</b>
<b>Appendix 1– Project timelines .....</b>	<b>17</b>
<b>Appendix 2 – Project Participants .....</b>	<b>18</b>

## EXECUTIVE SUMMARY

On the world stage, South Australians are being applauded for the innovative ways we are bringing fresh energy and life to our city. Surrounded by scenic landscapes, beaches and hills, with a reputation for its art festivals, fine foods and wine, Adelaide is considered one of the most liveable cities on the planet.

One of the South Australian government's key economic priorities is to continue to create a vibrant Adelaide that attracts new investors, entrepreneurs, residents and visitors. The flourishing of live music in our city is a vital element to the success of this vision. Adelaide is already an exciting community for musicians and music lovers with a robust music infrastructure and a history of musicians and bands that have achieved global success. This was formally recognised by the United Nations in December 2015 when Adelaide was designated a UNESCO City of Music, joining just 19 other cities internationally noted for their music cultures.

While music is often acknowledged for its cultural contribution, it also has significant and often unrecognised economic value. A recent report<sup>1</sup> found that live music in South Australia contributes \$263.7 million to the South Australian economy every year and delivers 4,100 jobs. In addition, this research shows that, after food and wine, music is the most popular attractor for tourists to a region and a key driver of overnight visits.

Live music is therefore not just good for our city but for our economy. It is more important than ever to build on our reputation by creating the optimal conditions to allow our artistic and entrepreneurial communities to thrive, create employment and increase the vibrancy of our city.

The South Australian government has already made some strides in this direction over the past 12 months. It has been successful in achieving changes to building classifications under the National Construction Code which have significantly reduced the cost of establishing small live music venues. In addition, new laws have been passed removing the requirement for licensed venues to have a separate consent to provide entertainment or live music during certain hours. But more can be done to create a best practice regulatory environment that leads the nation in supporting the growth of the live music industry.

In this context, the Premier commissioned the Streamlining Live Music Regulation Change@SA 90 Day Project. The purpose of the project was to examine the regulatory barriers facing bricks and mortar live music venues and to recommend reforms to reduce the regulatory burden for live music venues.

The project has been a collaborative effort of South Australian Government agencies, the Adelaide City Council, the National Live Music Office, the Australian Hotels Association of South Australia, the music industry and the community. It has been inspired in part by the success of the small venues regulatory model which has created a small bar culture and contributed to the transformation of the little-used laneways of Adelaide's CBD into vibrant spaces.

The project team undertook a rigorous analysis of the legislative environment, conducted interviews, prepared case studies and formed an industry reference group that provided advice about live music related issues. There is ample scope to simplify the current regulatory system whilst still ensuring that common neighbour and community concerns about noise and safety are addressed.

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<sup>1</sup> University of Tasmania's (UTAS) report, *The Economic and Cultural Value of Live Music in Australia 2014*

For example, the project team uncovered a range of licence conditions on instruments, genres and advertising which are highly restrictive and somewhat anachronistic. One high profile venue in a Rundle Street laneway is permitted to play only 'harps and didgeridoos'. A venue in Light Square is approved to play only *Andean, Ancient Greek, Christian Country, Indian Asian, Latin Freestyle, Gregorian Chant, Medieval, Opera, Polka, Blue Grass* genres of music. Other licence conditions prohibit door charges and restrict how much a venue is permitted to advertise a live music event.

The project team's recommendations will support venues and musicians, reduce unnecessary regulation and streamline necessary processes, immediately improving the ability of licensed and unlicensed venues to provide live music. The recommendations are summarised below, with more details set out in section 3 of this report.

### **Regulatory proposals**

1. Allow all venues, both licensed and unlicensed, to showcase 'low risk' musical activities without needing to obtain development approvals. This could be complemented by improving the guidance material for assessing bodies relating to live music activities which will still need development approval.
2. Adelaide City Council to provide a case management service for live music venues to provide a single point of contact and assistance to navigate the complex planning, building assessment and liquor licensing systems.
3. Adelaide City Council to remove any existing development conditions which are inconsistent with the new approach outlined in recommendation 1, free of charge, upon application of the venue. In addition, conditions relating to music genres and regulating the use of specific instruments will no longer be placed on liquor licences.
4. The Department of Planning, Transport and Infrastructure (DPTI) should deliver an advisory notice to guide assessing bodies on how to consider entertainment related activities under the *Development Act 1993*.
5. Environmental Protection Agency (in consultation with the Adelaide City Council and industry) to produce a technical guide for acoustic engineers setting industry standards for engineers. This will reduce disputes (and costs on businesses) and minimise the need for peer review, limiting the budget impact on local government.

### **Supporting venues and musicians**

6. Renewal SA to make the next available round of City Makers grant funding available to venue operators for the purpose of alleviating the costs of acoustic engineering reports in order to gain relevant approvals to showcase live music.
7. Adelaide City Council to consider a simple parking permit scheme for loading and unloading of music equipment as part of its planned review of loading and servicing requirements.
8. Project team member David Grice of Musitec to work with a venue in the East End to trial Music City Technology's Acoustic Array which will provide the venue with the opportunity to view, in real time, the level of city sounds and noise generated around the venue as a trial over a 3 month period in 2016. It is hoped this 'acoustic mapping' technology will enable venues to self-regulate and mitigate noise related issues in mixed use areas.



Baker Suite Trio



City Riots

## 1. Context

### 1.1 Background

On 10 February 2016, the Premier announced an industry-led red tape reduction review aimed at supporting Adelaide's live music venues. The resulting 'Streamlining Live Music Regulation' 90-day Change@SA project was established to investigate and implement reforms.

Building on the work of the thinker in residence, Martin Elbourne in his 2013 report *Reverb: The Future of Live Music in South Australia*, the 90 day project team worked to:

- identify key barriers to showcasing live music in South Australia
- recommend ways to help streamline the regulatory framework
- provide input into wider planning and liquor licensing reforms from a live music perspective.

The project team's work has been guided by the following core principles:

- 1) The regulatory framework should:
  - support a sustainable live music industry
  - be safe for patrons

- encourage the responsible service of alcohol
  - balance the needs of the live music industry with those of residents and the broader community
  - promote good relationships with neighbours.
- 2) Regulation should only be imposed where necessary and be proportional to the risk it seeks to mitigate
  - 3) The system should be timely and cost effective, minimise interactions with government and avoid duplication.

In undertaking this work, the project team rigorously analysed the legislative framework in which live music operates, conducted interviews, prepared case studies and formed an industry reference group to advise the project team of relevant live music related issues.

The project team also investigated the impact of broader government reforms that will affect the live music industry. These reforms include the current review of the *Liquor Licensing Act 1997* and the planning reforms discussed below at section 1.3.

The project aims to strengthen Adelaide's position as a world leader in music and to build on the formal recognition by the United Nations of Adelaide as a UNESCO City of Music.

### **1.2 Case for change**

Industry feedback supports the findings of surveys conducted by the Department of the Premier and Cabinet (DPC) with support from the Australian Hotels Association of South Australia (AHA|SA), the Music Development Office (MDO) and Consumer and Business Services (CBS) which identified the top three barriers to hosting live music as:

- financial viability
- regulatory barriers
- security costs.

This research is further supported by the findings of the *University of Tasmania: The Economic and Cultural Value of Live Music in Australia 2014* report (the UTAS report) which highlights the barriers to success for live music venues as follows:

*“Venues in Sydney, Melbourne and Adelaide most frequently identified issues relating to government regulation and enforcement. While the specifics varied between cities, these included concerns over restricted opening hours, licensing conditions, sound abatement and the costs associated with compliance.”<sup>2</sup>*

In South Australia, to obtain approval to showcase live music, venue operators must navigate a range of requirements in multiple Acts, guidelines, development plans and policies making the regulatory system potentially costly and onerous.

The case studies examined by the project team illustrate how this complex system has led to delays, burdensome conditions being placed on licensees through the planning and conciliation process and operators incurring significant costs for acoustic engineering reports, noise attenuation works and building code compliance. This complexity creates a disincentive to showcase music in an existing venue or to open a new live music venue.

For example, the surveys revealed that some venues delay applying for live music-related approvals at the commencement of their venture due to the regulatory costs and burdens and only later seek approvals for live music once their business is established.

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<sup>2</sup> *The Economic and Cultural Value of Live Music in Australia 2014*, University of Tasmania, page 32, <http://www.utas.edu.au/latest-news/utas-homepage-news/live-music-dollars-boost-the-australian-economy-three-times-over>, accessed Friday 13 May 2016.

The project team's research also shows that having the flexibility to showcase live music offers many venues in the hospitality sector the opportunity to diversify their business models. While Friday and Saturday nights are generally the key times that venues make their profits (whether a venue has live music or not), there is evidence that enabling a venue to diversify its entertainment activities by offering live music can increase profits, employment and vibrancy. This is particularly the case if venues are able to offer live music at non-peak times (Sunday afternoons, Wednesday or Thursday nights).

As outlined further in section 1.4, making it easier for venues to showcase music through simpler regulation (while still addressing community concerns about noise and safety) will not only increase vibrancy and contribute to Adelaide's cultural life, but will also increase employment and productivity in South Australia.

### **1.3 Current reforms relating to live music regulation**

The past 12 months have been an exciting time for red tape reduction initiatives in South Australia affecting the live music industry. Reforms which have commenced or are in progress are summarised below.

#### Variation to building classifications under the National Construction Code (NCC)

Under the current National Construction Code, building types are separated into 16 classes, two of which apply to live music venues: Class 6 and Class 9b.

At the request of the SA Music Industry Council, the Department of Planning Transport and Infrastructure (DPTI) initiated South Australian variations to the National Construction Code that effectively enable certain live music venues to be designated as Class 6 buildings (with fewer assessment hurdles) instead of as Class 9b buildings (involving significantly more compliance obligations). This was achieved by various amendments to the relevant definitions, and by adding a new reference to a small arts venue in the definition of Class 6 buildings as follows:

*Small arts venue means the whole or the only part of a building that has a rise in storeys of not more than two:*

- *in which cultural activities including live music, visual art displays, dancing, poetry and spoken word performances are provided to the public; and*
- *the floor area used does not exceed 300m<sup>2</sup>; and*
- *no pyrotechnics or theatrical smoke (smoke machines, hazers or the like) are used.*

The move from Class 9b to a Class 6 classification for live music venues that meet the relevant criteria is a big win for regulation in South Australia for live music and significantly reduces the costs associated with starting a live music or small arts venue. This reform has been operational since 1 May 2016.

#### Removal of Entertainment Consent Licence Condition

Amendments to South Australian liquor laws were unanimously passed by the South Australian Parliament in November 2015 to remove the requirement for venues with liquor licences to obtain consent for entertainment between 11am and midnight. The effect of these reforms is that it is no longer a requirement for licensed venues to obtain a separate consent to provide entertainment or live music.

This removed a red tape barrier for venues to showcase live music and entertainment in South Australia, which previously regulated days, times, permitted artists and imposed fees on licensed venues wishing to provide entertainment.

## Planning and Liquor Licensing Reforms

As identified in this report, the South Australian planning and liquor licensing frameworks are the two key regulatory schemes that apply to live music venues. The government is currently committed to implementing more general reforms in both areas that, while not focused on live music, will affect the live music industry. Reforms in these sectors will go a long way to creating a simpler regulatory framework for live music venues. These reforms include:

- the independent review of the *Liquor Licensing Act* being conducted by Timothy Anderson QC
- the Expert Panel report on the planning system which has led to the *Planning, Development and Infrastructure Act 2016*.

The project team has worked closely with all relevant agencies and will provide feedback on these reforms from a live music perspective.

Further information about these reforms is available here:

[http://dpti.sa.gov.au/planning/planning\\_reform](http://dpti.sa.gov.au/planning/planning_reform)

<http://www.agd.sa.gov.au/initiatives/review-of-sa-liquor-laws>

### **1.4 Data**

There have been many reports on the economic impact of the music industry in Australia, but none that specifically focuses on South Australia. The available data tends to analyse specific areas of either live performance or recorded sales rather than the industry as a whole.

The need for such an approach was highlighted in the 2012-13 Thinker in Residence report 'Reverb'. The report identified that "*it is... particularly important for South Australia to establish a set of performance metrics and establish a foundation against which the music industry can, on an annual basis, objectively and consistently assess the impact of strategies designed for its development*".

In May 2015 Music SA and the Live Music Office undertook a census of live music in licensed premises in greater Adelaide, to develop a snapshot of the state of play. Data was gathered from venue websites and social media pages, gig guides such as 'Rip It Up' and 'Live at Your Local'. Further information was sourced through word of mouth, telephone contact, as well as Music SA and industry contacts. The MDO and the Live Music Office provided financial assistance for the project.

Key findings from the census showed:

- 962 gigs were presented
- 157 venues hosted live music
- hotels provided 769 gigs across 108 venues (79.9% of gigs and 68.7% of venues)
- there were 17 gigs across three entertainment venues, 39 gigs in eight clubs, and 17 gigs in six restaurants
- only one small venue licence had live music, hosting three gigs across the month. (0.3% of gigs and 0.5% of venues) This category of liquor licence was introduced in 2012 to support the development of the live music sector in South Australia
- gigs were 30% original and 70% covers
- the Adelaide CBD provided the most live music
- 11 of the Special Circumstances Licences were operating as hotel businesses
- there were five weekends across the month of May.

In 2011, the Australasian Performing Rights Association (APRA) engaged Ernst and Young to estimate the venue-based live music industry's contribution to the Australian economy. The report, using figures from the 2009-10 financial year, highlighted the industry's gross output and level of employment.

Nationally, the value of the live music industry's contribution to the economy in terms of industry output was \$1.21 billion. The total employment for the industry was 14,866 FTEs.

Ernst and Young calculated that South Australia had an 8.7% share of total industry output of around \$105 million. In addition, the South Australian live music industry employed 1,282 FTEs.

Ernst and Young were also engaged by Live Performance Australia to undertake a survey of ticket attendances and revenues for the live entertainment industry for the 2011 calendar year. This showed that South Australia's contemporary music sector accounted for 7% of national revenue; approximately \$38 million with attendance of 418,201 persons. In addition, South Australia accounted for 5.2% of festival ticket sale revenue (\$5 million) with attendance of 97,411 persons.

Since 2004 to 2011 ticket sale revenue for contemporary music at the national level has increased by 176% with attendances increasing by 117%.

APRA collects live music data as part of its role in administering the rights of songwriters and composers in Australia and around the world.

For the 2012-13 financial year there were 410 premises in South Australia presenting live music with a spend of \$10.1 million on live artist performers. Of this, 64% was spent in metropolitan venues and 36% in regional venues. Hotels represent the vast majority of venue expenditure on live music, spending \$6.6 million on live artist performers (65% of the State's spend).

The most recent study of the contribution of live music was a 2014 survey and report undertaken by the University of Tasmania. The study titled 'The Economic and Cultural Value of Live Music in Australia' reported that in 2014:

- Live music contributed \$263.7 million to the South Australian economy in gross value added terms. This equates to around 0.3% of Gross State Product.
- Total employment from making live music in South Australia was estimated at 4,100 jobs (0.5% of total SA employment).
- Live music ticket sales in South Australia totalled \$59.7 million. This was around 6% of national ticket sales.
- The proportion of consumer expenditure on live music nationally shows the majority of:
  - 29% spent on food and beverages
  - 19% spent on ticket purchase
  - 17.6% spent on travel
  - 12.4% spent on accommodation.

As it stands, a comprehensive understanding of the economic contribution of the South Australian music industry to the State's economy is largely unknown. There is a clear need to establish a forward data collection agenda for the music industry that can allow policy makers to model the sector's contribution to the economy, how this changes over time, and identify areas of sectoral need and ascertain the impact of any development or assistance measures.

The MDO is leading government efforts to improve this data collection and economic analysis. It is imperative for the industry to contribute to this work in order to assess the cultural benefits and true economic value to South Australia of promoting live music.

## 2. Case studies

### 2.1. Overview

To identify issues and inform policy development, the project team conducted six case studies of venues. Venues were chosen to illustrate a range of scenarios based on whether they were:

- a new venue
- an established venue that sought to showcase live music
- a small venue.

While many of the issues relating to live music venues are relevant for all types of development (e.g. complexity and costs of compliance of the planning system, lengthy approval processes, duplication), the case studies show that live music itself poses a unique challenge for regulators, businesses and the community that primarily revolve around managing noise. This is reflected in the conditions on development approvals, liquor licences (which often merely mirror development approval conditions) and particularly noise attenuation costs, works and approvals.

### 2.2 Key lessons learned from the surveys, case studies and related research

- **Some licence conditions and processes are unnecessarily restrictive:**
  - **‘No live music’ conditions on development approvals act as a barrier:** Several case studies show that some venues which originally planned to have live music, accept ‘no live music’ conditions on their development approval (which is also placed on liquor licences) in order to avoid further costs and regulatory burdens relating to live music approvals such as acoustic assessment reports and works. Instead, they approach the approval process in two stages:
    - Stage 1: obtain all relevant approvals to get the business up and running and generate revenue.
    - Stage 2: apply for a variation of their development approval to showcase live music (at a cost to the venue).
  - **Conditions on instruments, genres and advertising are unnecessarily restrictive:** conditions on licences resulting largely from conciliation include limiting musical performances to specific instruments or genres and prohibiting the advertising of performances. These restrictions inhibit business growth and are frequently used as examples of over regulation by industry.

In some cases, conditions that remain on liquor licences are not the result of conciliation or development approvals but are rather historical conditions transferred to a new licence. This is arguably done to ease the administrative process and speed up approvals.

Examples of conditions include:

- the playing only of “*Harps and Didgeridoo[s]*”;
- approving only “*Andean, Ancient Greek, Christian Country, Indian Asian, Latin Freestyle, Gregorian Chant, Medieval, Opera, Polka, Blue Grass*” genres of music.
- one bar in Adelaide has conditions including:
  - background music only at level where conversations can be held
  - not to be used or advertised as a night club, dance club, jazz club, karaoke bar, discotheque, rock band venue or similar
  - no door charges.

- **The process to remove or vary conditions can be onerous:** Liquor licences are a key document that compliance officers and SAPOL check when inspecting a venue. Liquor licences therefore duplicate development approval conditions so that compliance officers and SAPOL do not have to search both a liquor licence and a development approval for conditions. This is largely done for the administrative ease of the regulator, not the venue.

As a result, where conditions are sought to be removed from both a development approval and a liquor licence, venues must apply to each regulator, separately, at a cost each time, to vary conditions. The planning and liquor licensing systems do not share information in such a way that a variation to one licence automatically varies the other.

- **There is no clear single point of entry:** The project team's research shows that the complexity of the system is a barrier to gaining approvals and increases the costs of establishing a venue, particularly from the planning side. Venues expressed the desire for a single entry point into the regulatory system to enable them to obtain the necessary approvals to showcase live music and that a case management service, similar to the service provided by Renewal SA that supported the expansion of small bars, would assist with this.

Venues also expressed a desire to have a single application process run online rather than separate approval processes.

- **The complaints process could be improved:** Venues by and large try to be good neighbours and resolve issues such as loud music and patron behaviour outside of the regulatory framework where possible. However when issues arise and the conciliation process is used, there is a general view from industry that outcomes resulting from conciliation are too heavily weighted in favour of the complainant. Conversely, residents groups reported that they often feel ignored by the process.

While these two views are hard to reconcile, both industry and residents share the view that complaining about noise is a very complex process and that they would like to see it handled by a single body rather than a variety of regulators depending on the nature of the noise. Information about the current regulatory environment is available on the Environmental Protection Authority website at the following link:

[http://www.epa.sa.gov.au/environmental\\_info/noise/types\\_of\\_noise](http://www.epa.sa.gov.au/environmental_info/noise/types_of_noise)

- **Improvements could be made in the way that the 'agent of change' principle is reflected in the planning process:** Under the 'agent of change' principle, if a music venue is already in place before a new residential development is built, the residential development is responsible for the cost of noise mitigation measures as part of the planning process. Likewise, if a new music venue opens or expands in a residential area, the venue is responsible for the costs of mitigating the impact of its noise on neighbours.

Industry is of the view that the way that the 'agent of change' principles are implemented in South Australia is overly complicated, not well understood and does not adequately protect live music venues. Reforming the rules to be more consistent with reasonable 'agent of change' principles was a key concern for stakeholders and measures aimed specifically at the live music industry were recommended by industry representatives.

- **Information provided by or given to applicants by legal representatives is not always accurate or recommended by regulators:** In some cases venues create delays or difficulties in approval processes by providing incorrect or incomplete information or by obtaining legal advice and proceeding with applications that regulators would not necessarily recommend. This is in part created by the complexity of the system.

- **Costs can be prohibitive:** While only one venue used the recent City Makers grants for acoustic works, the costs and barriers to gaining relevant approvals due to the need for acoustic attenuation reports appears to be a disincentive, particularly for a new business where the venue wants to get operations up and running as quickly as possible.
- **The system is complex:** All venues noted the complexity and costs of the system as a whole. The government is implementing the broader South Australian planning and liquor licensing frameworks reforms outlined in section 1.3 in order to create a better system for all stakeholders, including live music venues.
- **Pre-lodgement meetings:** Stakeholders view pre lodgement meetings as an important step to get advice. The Adelaide City Council already provides such services however having representatives from Consumer and Business Services join such meetings or having a case manager able to represent both organisations to provide advice was seen as a benefit by venue owners.

Additional issues identified that apply to a range of stakeholders, including live music venues, include delays in applications relating to assessment processes for outdoor dining permits, disability access and heritage issues.

### 3. Immediate regulatory reforms and recommendations

To deliver short term reforms prior to the implementation of broader planning and liquor licensing reforms, the project team considered areas that would:

- reduce the regulatory burden on hosting live music for both licensed and unlicensed premises while meeting common neighbour and community concerns about noise and safety
- assist businesses when navigating and interacting with the planning and liquor licensing systems
- alleviate costs in complying with the planning and liquor licensing system
- provide certainty and confidence to businesses seeking to host live music.

While the project team examined a broad range of issues, the following proposals reflect the consensus of agencies and industry and are expected to have the greatest immediate impact.

#### 3.1 Recommendations

1. **Exclude low risk entertainment from being treated as development.** It is proposed to amend Schedule 3(5) of the *Development Regulations (Use of land and buildings)* to exclude 'low risk' entertainment from being considered development, meaning that it will not need to be assessed. The precise definition of 'low risk' entertainment in this context will need to be carefully considered to achieve the intended benefits. The potential benefits of this amendment include:
  - allowing licensed and unlicensed venues to showcase low risk musical activities without development approvals thereby promoting the uptake of live music in existing and non-traditional venues (e.g. coffee shops)
  - reducing costs on businesses to gain acoustic assessments and development approvals
  - providing certainty to businesses around approved entertainment activities
  - possibly providing an opportunity to produce better guidance material for assessing bodies when assessing those live music related activities which are not low risk, and therefore do require assessment as 'development'.

- 2. Introduce case management for live music venues:** The case studies and feedback from industry confirm that the delivery of a case management service for live music venues would be of considerable benefit in easing the regulatory burden on venues.

As most live music related issues relate to the development approval system, it is recommended that the case management service be delivered by the Adelaide City Council who may liaise directly with Consumer and Business Services to assist applicants in the assessment process.

The functions of the case management service will be to provide:

- access to a collaborative and coordinated process to assist in preparing applications
- guidance for proponents through the regulatory system
- a single accountable point of contact
- assistance in navigating the planning, building assessment and liquor licensing system
- an efficient and integrated approach in which planning approval is consistent with operational licensing requirements.

Case management is an effective short term measure to improve services while longer term changes are made to deliver a simpler, more efficient system as a whole.

The project team is also providing input into the broader planning and liquor licensing reforms already underway to ensure that regulatory issues affecting live music will be addressed.

**3. Improve licence processes and conditions:**

- The Adelaide City Council should remove any development conditions on venues relating to 'no live music' or conditions that are inconsistent with the amendments to Schedule 3 of the *Development Regulations 2008* free of charge, upon application by the venue, once the Schedule 3 amendments in recommendation 1 are implemented.

By doing this, venues who are currently unable to host live music will be able to showcase live entertainment in accordance with Schedule 3 free of charge.

- Conditions relating to genres and regulating the use of specific instruments should no longer be placed on liquor licences.

As a result of recent legislative amendments (outlined in section 1.3), existing entertainment conditions no longer apply between 11am and midnight because the requirement to obtain entertainment consent has been removed. This includes conditions previously imposed in relation to those hours by Consumer and Business Services as a result of conciliation following a noise complaint (noting that new conciliation conditions imposed since the legislative amendments in December 2015 will still apply).

Conditions and approvals imposed on licensed premises by other Acts, such as approvals under the *Development Act 1993*, will continue to apply. However 'no live music' conditions between 11am and midnight may be varied on development approvals free of charge upon the commencement of the Schedule 3 amendments discussed in recommendation 1.

- 4. Advisory notice:** Department of Planning, Transport and Infrastructure (DPTI) should deliver an advisory notice to guide assessing bodies on how to consider entertainment related activities under the *Development Act 1993*.

- 5. Production of a technical guide for acoustic engineers:** The Environmental Protection Agency should produce a guide that will set industry standards for engineers. This will reduce disputes (and costs on businesses) and minimise the need for peer review, reducing the budget impact on local government.

6. **Grants:** Feedback from live music venue operators and from the case studies indicates that grants to alleviate the costs of acoustic engineering reports would greatly assist and encourage venue operators in gaining relevant approvals to showcase live music.

#### *Existing grants*

Currently Renewal SA and Arts South Australia manage grants that assist live music venues.

- *City Makers* delivered by Renewal SA (in the CBD only) provides grants of up to \$10,000 for building compliance related costs (previously \$20,000 in round 1). Of the businesses in the first two rounds of grants, the only bar to receive a grant was NOLA (a special circumstances licensee, currently undertaking noise attenuation measures to play live music).  
The next current available funding for *City Makers* post 20 June is in the 2017/18 budget year.
- Arts South Australia delivers the *Contemporary music grant* (\$300,000 total and for original local music only) which includes a 'Festival and Venues' category. Of this, nine small festivals shared \$63,000 towards local artist fees, marketing and production in 2015 with no live music venues applying.

#### *Other assistance available*

Since 2006, the Adelaide City Council has been providing a Noise Management Program which assist residents in addressing external noise intrusion. This includes an Acoustic Advisory Service and Noise Management Incentive Scheme. These services provide:

- a) a free consultation service which makes recommendations on possible physical changes to a residence to address external noise issues
- b) a reimbursement scheme to assist in the costs involved in undertaking any recommended acoustic works.

Whilst not directly assisting live music venues, these services contribute to allowing live music and residential development to cohabitate more agreeably. More information can be found at <http://www.adelaidecitycouncil.com/your-council/funding/noise-management-incentives/>

#### *Recommendation*

Given there are existing grants schemes which can be used to support venues with acoustic attenuation reports and works, the project team recommends apportioning funding (at a level to be determined) specifically to live music venues during the next available funding period (in the 2017/18 budget year or before, subject to availability) of *City Makers*.

Renewal SA in liaison with the MDO and Music SA should deliver targeted communications to key stakeholders informing them of the amounts, criteria and key dates.

In addition, it is noted that the Adelaide City Council plans to review its Noise Management Program in the near future and will investigate the business case for providing a grants program for music premises.

7. **Parking permits for musicians:** Adelaide City Council to consider a simple permit scheme for loading and unloading of music equipment as part of its planned review of loading and servicing requirements in the city.
8. **Acoustic mapping:** Project team member David Grice of Musitec to work with a venue in the east end to trial Music City Technology's Acoustic Array which will provide the venue with the opportunity to view, in real time, the level of city sounds and noise generated around the venue as a trial over a 3 month period in 2016. It is hoped this 'acoustic mapping' technology will enable venues to self-regulate and mitigate noise related issues in mixed use areas.

### **3.2 Strategic picture of the proposed reforms**

The implementation of these recommendations will reduce the regulatory burden on live music venues and encourage the showcasing of live music. In particular, the recommendation to allow all venues, both licensed and unlicensed, to showcase 'low risk' musical activities without needing to obtain development approvals, will immediately foster the growth of live music. The proposals build on recent reforms undertaken by the South Australian government, namely, the removal of the requirement for specific entertainment consents in relation to liquor licences, and the variations to the classification of buildings under the National Construction Code which reduce the compliance burden on small music venues.

The recommended measures will contribute to the development of an innovative system that leads the way in public policy making nationally. Longer term reform opportunities are outlined below at section 4.

## **4. Medium to long term systemic opportunities**

The following section identifies further longer term opportunities to embed the fostering of live music into existing and planned reform projects. These could be considered by relevant government agencies as the reforms of planning and liquor licensing continue.

### *Noise complaints*

Feedback from both venues and residents groups overwhelmingly supported a more simple and accountable noise complaints process and a single body to deal with complaints.

While the liquor licensing review will investigate whether noise complaints on licensed premises should continue to be dealt with under the liquor licensing framework, noise complaints about music may relate to both licensed and unlicensed premises. Consideration could be given to whether to create a single accountable body responsible for this which does not differentiate between licensed and unlicensed venues.

### *Agent of change principle*

Venues and residents groups, while approaching the issue of 'agent of change' from differing perspectives, uniformly agreed that strict enforcement of both the agent of change principle, and importantly, building standards compliance with adequate noise attenuation measures, are critical to achieving a balance in mixed use areas of live music and residential living.

In this context, it is noted that, arising from experiences of new apartments near the Austral and Grace Emily Hotels, in the mid 2000's, the Adelaide City Council implemented a variety of noise management measures. This included in 2006, the Adelaide (City) Development Plan being amended based on the agent of change principle to include statutory guidelines applicable to development of new housing and new music venues.

These principles were subsequently used by DPTI as a basis for 'agent of change' based planning controls in other areas of metropolitan Adelaide. These principles remain in effect in the City.

More information can be found here:

<http://www.adelaidecitycouncil.com/assets/documents/ACC-DIGS-Noise-sensitive-Development.pdf>

Venue owners particularly endorsed the Victorian Government's introduction on 4 September 2014, of the 'agent of change' principle in the *Planning Scheme Amendment VC120* and *Clause 52.43*.

The new provisions impose obligations on the 'agent of change', for example a residential developer, with respect to noise from live music performance across Victoria, and aim to protect live music venues from residential encroachment.

The agent of change principle in Victoria requires a developer to include noise attenuation measures when a proposed residential development is within 50m of an existing live music performance venue. In practical terms, this means that a new residential planning proposal close to a live music venue will need to include appropriate noise attenuation measures. Similarly, if a live music venue is established or seeks to expand, the owner/operator will be responsible for attenuating any noise effects that are caused by that change.

The 'agent of change' principle is triggered automatically when a new planning permit application is lodged in Victoria.

More information is available at:

<http://www.musicvictoria.com.au/resources/agent-of-change-explained>

#### *Vibrancy and increases in population of the CBD*

The South Australian Government and the Adelaide City Council share the vision of creating a thriving, 24-hour city, with well supported business and tourist industries. This includes the State Government's aim to increase the city's residents to 50,000 by the end of 2024.

However, as noted above, there is potential tension between venues which emanate noise (whether they host live music or not) and nearby residential dwellings. This is not a situation that is unique to Australia – the need for responsible coexistence is a global issue.

Key to addressing this issue from a practical perspective is a responsive complaints process that:

- balances the needs of residents and venues by providing a simple, low cost dispute resolution process
- provides clarity around the application of the agent of change principle
- strictly enforces building standards that mitigate noise issues in nearby dwellings or venues (should they be the agent of change)
- recognises that night time economy areas have a different acoustic map than quiet residential streets.

#### *Integrate live music as part of the 30 Year Plan for Greater Adelaide and plans for other regions.*

To ensure live music and entertainment is enabled and fostered in the long term, government could articulate the locations, such as main streets and centres, where live music and entertainment is envisaged as part of the land use and development strategy. This would provide long term strategic direction to guide future land use zoning and also to guide long term decisions relating to integration with transport, including public transport. The music sector could be included in engagement on the *30-Year Plan for Greater Adelaide* and or other regions.

#### *Zoning that articulates intended land uses that support live music*

To ensure live music venues are able to easily obtain planning approval in envisaged locations, the government could investigate how this can be accommodated in the new Planning and Design Code to streamline approval processes for these locations and engage the music industry in this process.

For example, for locations where live music is envisaged, planning and liquor licensing approvals may involve limited or no public notification. For locations where live music is not envisaged, such as residential zones, notification requirements could be considered.



## ***Appendix 1 – Project timelines***

### **Project completion June 2016**

#### **By Q3 2016**

- Amendment to Schedule 3 Development Act
- Removal of ‘no live music’ conditions on development approvals in accordance with Schedule 3
- Amendment to the National Construction Code Class 9b reforms
- Case management service
- Eliminate liquor licensing conditions on genre, and specific instruments
- DPTI to issue advisory notice to assessing bodies regarding the assessment of live music under the definition of ‘development’

#### **By the end of 2016**

- Noise mapping of city precincts
- Grants for acoustic engineering reports
- Investigate parking permits/loading zone for musicians
- Delivery of guidelines by the Acoustic Engineers Association with EPA for acoustic assessment

#### **Beyond 2016**

- Implementation of liquor licensing reforms
- Implementation of planning reforms

## Appendix 2 – Project Participants

### Steering Group

Name	Organisation	Title
<b>Kym Winter-Dewhirst</b> <b>PROJECT SPONSOR</b>	DPC	Chief Executive
<b>Madeline Richardson</b>	DPC	Executive Director, Implementation and Public Value
<b>Adam Kilvert</b>	DPC	Executive Director, Intergovernmental Relations
<b>Georgina Vasilevski</b>	Renewal SA	General Manager
<b>Mark Goldstone</b>	Adelaide City Council	Chief Executive Officer
<b>Hon John Gazzola MLC</b>	Member of Parliament	Member of Parliament
<b>Dini Soulio</b>	Attorney Generals Department	Commissioner for Consumer Affairs, Liquor and Gambling
<b>Sally Smith</b>	DPTI	General Manager, Investment Management
<b>Alex Reid</b>	DSD	Deputy Chief Executive
<b>Ian Horne</b>	Australian Hotels Association South Australia	General Manager
<b>Peter Louca</b>	DSD	Executive Director, Arts SA
<b>Paul Goiak</b>	DSD	Director, Industry Participation Office

### Industry Reference Group

Name	Company	Title
<b>Lisa Teburea</b>	Local Government Association	Director, Planning and Development
<b>Lisa Bishop</b>	Music SA	General Manager
<b>Tam Boakes</b>	Jive	Founder, Jive
<b>Ross Stanley</b>	Chihuahua	Owner, Chihuahua
<b>Ryan Winter</b>	The Governor Hindmarsh	Publicist
<b>Dan Crannitch</b>	Five Four Entertainment/Exeter	Booking Agent
<b>Ross McHenry</b>	Independent Musician	Musician
<b>Denise Gray</b>	SAPOL	Chief Inspector
<b>Joe Hay</b>	Proof of Life Festival	Founder/Creative Director
<b>Tony Bond</b>	Edinburgh Castle Hotel	Manager
<b>Damian Peterson</b>	Hotel Metro	Manager

## Project team

<b>Name</b>	<b>Organisation</b>	<b>Title</b>
<b>Madeline Richardson</b>	<i>DPC</i>	<i>Executive Director, Implementation and Public Value</i>
<b>Cane Goldsworthy</b>	<i>DPC</i>	<i>Senior Policy Officer</i>
<b>Warwick Deller-Coombs</b>	<i>Renewal SA</i>	<i>Director, City Growth</i>
<b>Karen Marsh</b>	<i>Music Development Office</i>	<i>Senior Music Development Officer</i>
<b>David Grice</b>	<i>Musitec</i>	<i>Managing Director</i>
<b>Pearl Tassel</b>	<i>Environment Protection Authority</i>	<i>Senior Environment Protection Officer</i>
<b>Louis Palumbo</b>	<i>Adelaide City Council</i>	<i>Team Leader Building Assessment &amp; Compliance</i>
<b>Helen Dand</b>	<i>Adelaide City Council</i>	<i>Planner Development Assessment</i>
<b>Bill Allison</b>	<i>Adelaide City Council</i>	<i>Team Leader Community Safety</i>
<b>David Bailey</b>	<i>Adelaide City Council</i>	<i>Acting Team Leader Spatial Planning and Heritage</i>
<b>Rick Hutchins</b>	<i>Adelaide City Council</i>	<i>Acting Associate Director Planning and Development</i>
<b>Jodie Evans</b>	<i>DPTI</i>	<i>Team Leader Building Policy</i>
<b>Wendy Bevan</b>	<i>Australian Hotels Association South Australia</i>	<i>Government Relations &amp; Policy Manager</i>
<b>John Evangelista</b>	<i>Consumer and Business Services</i>	<i>General Manager Licensing</i>