

**Submission on Wellington City Proposed District Plan**

**Form 5 Submission on publically notified proposal for policy statement or plan, change or variation**

*Clause 6 of Schedule 1, Resource Management Act 1991*

**To:** Wellington City Council - City Design & Place Planning

**Date received:** 12/09/2022

**Submission Reference Number #:**100

This is a submission on the following proposed plan (the **proposal**): Wellington City Proposed District Plan

**Address for service:**

Save Our Venues  
APRA AMCOS Aotearoa Unit 113 - 23 Edwin Street Mt Eden, Auckland 1024  
New Zealand  
Email: [taylor@saveourvenues.co.nz](mailto:taylor@saveourvenues.co.nz)

**Submission on behalf of:**

The Live Music Venues and Music Community of Wellington

**Attachments:**

Planning for Noise and Protecting Wellingtons Live Music Venues.pdf

**I wish to be heard:** Yes

**I am willing to present a joint case:** Yes

Could you gain an advantage in trade competition in making this submission?

- **No**

Are you directly affected by an effect of the subject matter of the submission that

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition

- **No**

**Submission points**

---

**Point 100.1**

**Section:** Noise

**Sub-section:** Standards – Permitted activity noise and sound insulation standards

**Sentiment:** Amend

**Submission:**

Currently proposed noise provisions do not adequately protect live music venues. Please see attached document for detail.

**Relief sought**

Please see attached document for detail.

12 September 2022



This submission to the Wellington District Plan is made on behalf of the NZ Live Music Venue advocacy organisation Save Our Venues and the Wellington music venues and music community that it represents. Save Our Venues is dedicated to creating a sustainable future for music venues in Aotearoa and advocating for a regulatory environment that protects and supports their role in the integral cultural infrastructure of a vibrant city.

Save our Venues is a national organisation that represents our grassroots music venues which are at the core of the music ecosystem of NZ. Venues are the places our artists hone their craft, connect with audiences, and grow their careers. Venues are where audiences connect with music and develop artistic communities. Venues create jobs in the music industry, hospitality industry and make an enormous contribution to the vibrancy of our cities and a thriving Night-time Economy.

The live music venues which have long been an integral part of the cultural identity of Wellington are confronted with the possibility of closure where residential urban densification has not coincided with adequate protections within the current WCC District Plan for their intrinsic need to produce sound.

As has happened in NZ and around the world, the reality that a new neighbour has the right to complain about the sound output of a music venue and restrict their ability to operate at a reasonable volume is an existential threat to their continued viability.

## The Issues Facing Live Music Venues

### 1. Urban Densification and Reverse Sensitivity

New residential developments in the immediate vicinity of existing live music venues currently have a low acoustic insulation standard. This creates an issue of reverse sensitivity, whereby new activities impact on existing activities occurring in mixed-use areas. Venues that are otherwise compliant with District Plan noise guidelines may still face enforcement action in response to noise complaints from new residents, severely restricting their ability to operate. While the current and proposed District Plans provide specific, measurable standards for acceptable noise levels in each zone which venues must meet, Council Noise Control Officers

are not currently required to take measurements when visiting the site of a noise complaint but may issue infringement notices or take enforcement action (including confiscation of expensive audio equipment) based on a subjective judgement.

In other high-noise locations - such as near the airport, or close to motorways - it has been amply demonstrated that it is possible to build dwellings to an acoustic standard that adequately mitigates potential noise issues when required by planning rules, and the modest cost of doing so has not been a disincentive to residential development in those areas. However, in a highly competitive residential market, developers have little incentive to take mitigation action above and beyond the minimum required.

The venue Caroline (1 Manners Street) has already been forced to close after ongoing issues with sound output to neighbouring residents. Other cities have lost established venues due to similar issues. Noise issues were a significant contributor to the closing of Auckland's The Kings Arms in 2018 after nearly 120 years of operation. The historic Crown Hotel in Dunedin has also been in jeopardy after consent was granted for an adjacent residential development - fortunately in this case, we have worked with the music community and DCC who have committed to finding a solution, and to reviewing their district plan to strengthen provisions around acoustic mitigation for residential developments near existing noisy activities.

Without such provisions in Wellington, there is an immediate risk to existing music venues such as Valhalla (154 Vivian Street, Te Aro) and Meow (9 Edward Street), where development has already begun on new residential developments in neighbouring properties. Other venues that may conceivably be affected by these issues in the future include San Fran (171 Cuba Street), Moon (167 Riddiford Street), Rogue and Vagabond (18 Garrett Street) and Pyramid Club (272 Taranaki Street).

There is strong international precedent for setting planning rules which protect venues while also enabling urban densification in jurisdictions in Australia, the United Kingdom, and across Europe.

### **Recommendation**

It is crucial to protect not only established venues, but also the ability for new venues to establish themselves in urban mixed-use areas. This would significantly contribute to a sustainable future for live music in the city.

The proposed plan already includes standards for a higher level of acoustic mitigation under proposed rule R3, which applies:

- Within 40m of a State Highway
- Within 40m of a Railway Corridor
- Courtenay Place Noise Area
- Inner Air Noise Overlay

We are therefore seeking that Wellington City Council make the following additions to this rule:

- Within 40m of a lawfully established live music venue
- Central Area

## 2. Zoning for Sound

A further solution could include the rezoning of existing music venues into Special Entertainment Precincts to allow for a higher level of sound output as part of Wellington's vibrant Night Time economy. These areas would allow for prioritising the cultural and economic value of these venues and protect them from land use conflict where new expectations of residential amenity can overlap with the existing features of the urban environment.

An example of these standards can already be seen in the High Noise Area zoned for Courtney Place and could extend further protections to the venues such as Meow, San Fran and Valhalla which are currently located in the Central Area Zone with higher restrictions on noise output standards. The Entertainment Precinct is an approach that has been implemented successfully in the likes of Queenstown, Sydney and with similar zoning structures in the Auckland Unitary Plan that allow for areas where entertainment activities are anticipated and provided for.

For the purposes of immediate protection, these overlays could be directly applied to existing music venues but the development of broader zoning classifications that incorporate the sound of live music into city planning could make the development of new music venues in the future more achievable.

### **Recommendation**

We are seeking that Council review its zoning rules and consider creating a Special Entertainment Precinct designation to protect existing and new music venues.

## 3. Noise Control Enforcement

There are significant issues with current Noise Control enforcement processes. The subjective matrix model of measuring sound that exists puts the entire onus on the complainant to determine what a disturbance is. The response from noise control officers is then exclusively a punitive process which requires venues to cease creating that disturbance, or risk a fine or seizure of valuable sound equipment.

Where a venue is required by noise control officers to cease an ongoing performance, there is huge scope for loss of income and confidence in the venue where future artists may deem it too risky to put on a show for fear of it being called off by Noise Control.

On top of this, the ramifications of noise complaints extend into the process for liquor licensing and can affect a venue's ability to renew the license they depend on for the vast majority of their income. This has been demonstrated at the venue Meow who have previously been through a long tribunal process to renew their license after a single neighbour's repeated complaints to noise control.

A standardised objective model for measuring decibel levels would greatly protect the need for music venues to create sound. Rather than a process where someone can deem a venue to "sound a bit loud" and be a disturbance, measuring the sound at the boundary of the property from where the sound is emanating, as well as inside the complainant's property, would enable Council to ensure that both the venue and the residential property are compliant with noise standards and acoustic mitigation standards respectively.

This then creates an opportunity to mediate between both parties to alleviate future conflict and ensure that both the venue and the property owner are taking reasonable steps to mitigate noise before the venue is restricted in its ability to operate at all.

There should also be the consideration that the sound of live music is inherently a different frequency to the sound of amplified recorded music or the normal environmental sounds of living in the city and should be measured to a standard that takes that into account.

### **Recommendation**

We are seeking that Council reform its Noise Control enforcement processes, equipping officers with decibel meters and requiring that an objective measurement demonstrating non-compliance be recorded before an infringement notice can be issued or enforcement action taken. A standardised objective model should be incorporated into the new District Plan.

## **4. Immediate Effect**

As currently proposed, rule R3 does not take effect until the new plan is fully ratified (which could take years), whereas the new permitted residential development rules would take immediate legal effect. This is likely to result in a rush on development, meaning that by the time the new noise rules would come into effect, it would be too late for any affected venues.

### **Recommendation**

We are seeking that Council give immediate effect to rule R3 alongside densification provisions.

## **The Future of Wellington and its Music Venues**

Urban densification is an inevitable part of the growth of Wellington City but as it stands, the factors above will undermine the ability of live music venues to operate and are at odds with the Council strategy outlined in Aho Tini 2030 that places significance on connecting diverse communities with the arts, supporting and growing businesses and employment within the creative sector, and supporting and protecting the cultural spaces which make Wellington vibrant and alive.

The renewal of the Wellington District Plan is an opportunity for the council to celebrate the role its venues have in the cultural infrastructure of the city, its thriving Night Time economy and as a pathway for Wellington's artists to take their music to the world by putting in place adequate protections that ensure they have a place in the city to produce sound and consequently, the right to exist. We hope that there can be a fundamental shift from the idea of live music as a "nuisance", to seeing it as an essential part of a culturally vibrant city.

Our venues play a crucial role in supporting Wellington's cultural vibrancy, and in providing a platform for local musicians and performers to build their careers. On behalf of the live music venues of Wellington and the local communities, artists and creative industries they support, we are asking for the Council to address the issues outlined above and develop appropriate regulatory protections to ensure live music has a future here.

Nga mihi nui

A handwritten signature in black ink, appearing to be 'Taylor MacGregor', written over a horizontal line.

Taylor MacGregor  
Save Our Venues