



Appeals Convenor
Environmental Protection Act 1986

**REPORT TO THE
MINISTER FOR ENVIRONMENT**

**APPEAL AGAINST REGULATION 19B VENUE APPROVAL
OPTUS STADIUM, PERTH**

**PROPONENT: VENUESLIVE MANAGEMENT SERVICES (WA) PTY LTD
(T/A VENUESWEST)**

Appeal Number 011 of 2020

June 2020

Appeal Summary

This report relates to an appeal received against the issue of a Regulation 19B approval under the *Environmental Protection (Noise) Regulations 1997* by the Town of Victoria Park to VenuesLive Management Services (WA) Pty Ltd (trading as VenuesWest) for Perth's major event venue, Optus Stadium, located on the Burswood Peninsula in the Town of Victoria Park.

In summary, the appellant is seeking certainty on the number of events to be held at Optus Stadium and a reduction in the allowable noise levels to an acceptable level. The appellant also raised other matters which are considered to be outside of the scope of appeal, namely a review of the *Environmental Protection (Noise) Regulations 1997* and the *Environmental Protection Act 1986* to provide a consistent and co-ordinated approach to managing noise emissions from multiple venues.

Based on the information provided during the investigation, it is considered that the appellant's concerns regarding the number of events have arisen from a misunderstanding of the approval conditions. The maximum number of special entertainment events (including motor sport events) permitted by the approval is ten (10), being a maximum of two major entertainment events, two motor sporting events and six medium events. Sixty-five sporting events are also permitted over a 12 month period.

In response to the appeal, DWER advised the following:

- the noise levels approved at the mixing desk are appropriate and similar to noise levels set for outdoor events in other jurisdictions
- the 'worst case scenario' modelling predicted that the noise expected at Vanguard Terrace is 50 dB(A) for a west or north stage configuration and 65 dB(A) for a centre stage configuration
- that based on the policy and guidelines in other jurisdictions, typical noise levels at sensitive receivers from outdoor concerts are between 55 dB(A) and 75 dB(A)
- the modelled noise levels of 50 dB(A) to 65 dB(A) at sensitive receivers is acceptable and reasonable under the approval.

In order to ensure that the noise levels are appropriately managed for Entertainment Special Events and Motor Sport Events, the conditions set out requirements for notification, complaints, monitoring and post event community consultation. It is noted that the Town of Victoria Park and VenuesWest have indicated that the results of monitoring can be made publicly available. In relation to cumulative impacts, it is understood that this concern has been recognised by DWER, the City of Perth and the Town of Victoria Park and a working group has been established to address the issues associated with multiple venues in the area.

Based on the above, it is recommended that the appeal be dismissed.

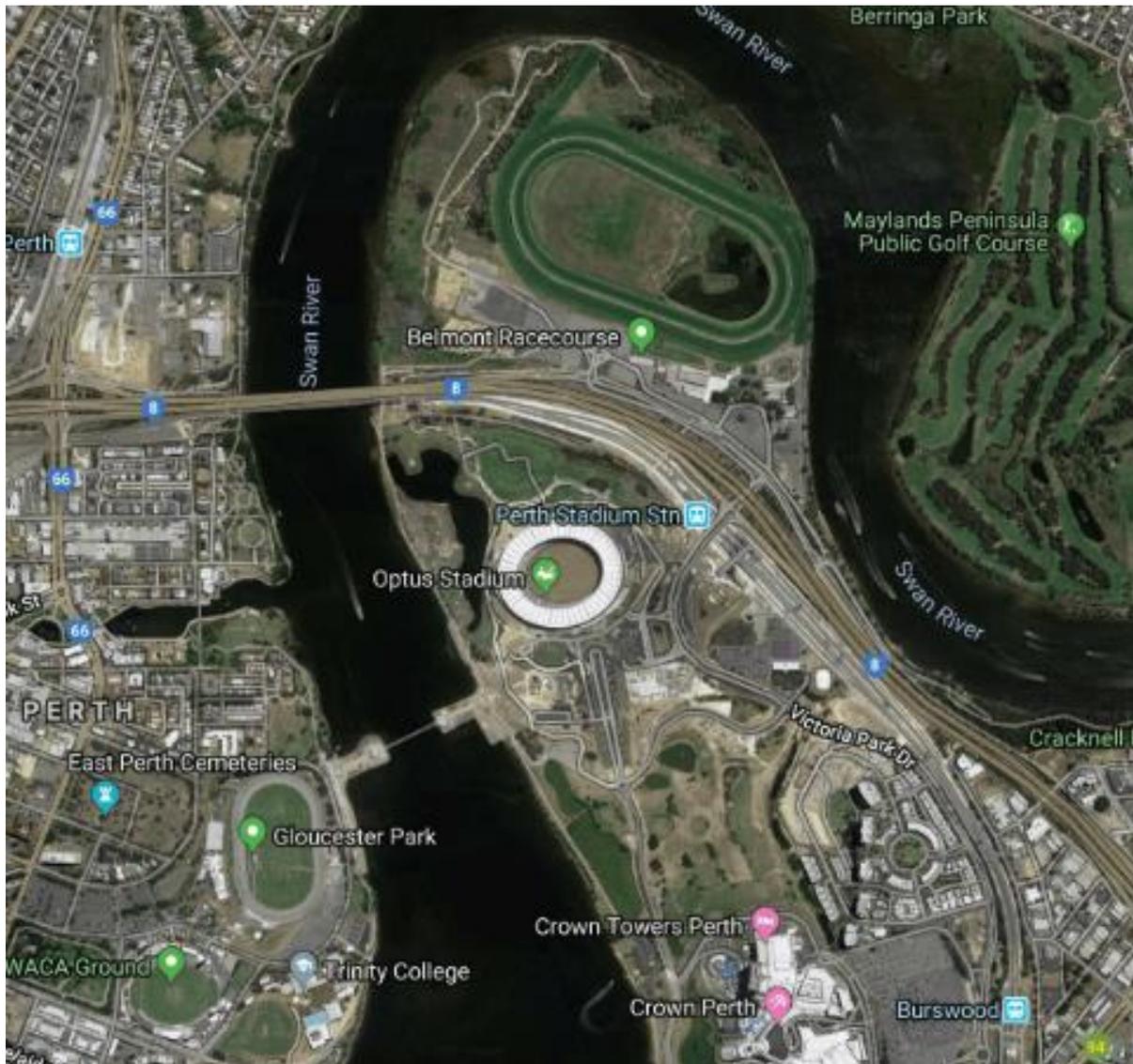
Recommendation

The Appeals Convenor recommended that the appeal be dismissed.

INTRODUCTION

Optus Stadium is a 60,000 seat multi-purpose stadium that opened in January 2018. Located on the Burswood Peninsula in the Town of Victoria Park (see Figure 1), it is the State's largest stadium, and was developed to host large public entertainment and sporting events. It is owned by the Western Australian State Government and is operated by VenuesLive Management Services (WA) Pty Ltd (trading as VenuesWest).

Figure 1 – Location of Optus Stadium



(Source: <https://www.footballgroundmap.com/ground/optus-stadium/perth-gloria> 20/05/2020)

In addition to hosting Australian Football League (AFL) and international cricket matches, the Stadium has been used for major entertainment events, including concerts by Taylor Swift, Queen, Ed Sheeran and U2.

On 15 November 2017, VenuesWest lodged with the Chief Executive Officer (CEO) of the Town of Victoria Park an application under regulation 19B(2) of the *Environmental Protection (Noise) Regulations 1997* (the Noise Regulations) for approval for a number of notifiable events to be held at the Stadium. A 'notifiable event' means a sporting, cultural or entertainment event that –

- (a) is open to the public; and

- (b) is likely to result in noise emissions, other than community noise, that do not comply with the standard prescribed under regulation 7; and
- (c) is not an approved event or an event for which application for approval under regulation 18 has been made.

On 3 February 2020, the CEO issued VenuesWest with a 'venue approval' for Optus Stadium under regulation 19B(7)(a) of the Noise Regulations.¹ This approval authorises VenuesWest to hold a number of notifiable events at the Stadium per 12 month period, for a duration of three years from the date of the approval. The scope of the approval is summarised in Table 1.

Table 1 – Summary of Optus Stadium 19B approval

(Source: Town of Victoria Park, 2020)

Type of event	Description of event	Subtype	Maximum noise level at mixing desk (dB)	Duration	Start/finish time	Maximum number of events in 12 months
Entertainment Special Events	Large scale concerts generally with major international touring acts (Ed Sheeran, Taylor Swift, Queen)	Major*	105 dB(A) 115 dB(C)	8 hours	10 am to 11 pm any day (except New Year's Eve events which will finish no later than 1 am)	10 including motor sport events *Maximum two major events
		Medium	105 dB(A) 115 dB(C)	6 hours		
		Minor	105 dB(A) 115 dB(C)	5 hours		
Motor Sport Events	Events with noisy motor vehicles (monster truck shows)	N/A	100 dB(A) within stands 105 dB(C) within stands	6 hours or 3 hours if there are two shows on the one day	10 am to 10 pm any day	2
Sporting Events	National and international Sporting competitions (AFL, Soccer, Rugby and Cricket)	N/A		10 hours	8 am to 11 pm any day	65

The CEO has delegated authority under section 20 of the *Environmental Protection Act 1986* (EP Act) to consider applications of this kind.

The appellant, Susan Randazzo, resides in East Perth and is a member of the East Perth Community Safety Group Inc. Her residence is immediately across the Swan River from Optus Stadium. She lodged an appeal under regulation 19G(1)(a) of the Noise Regulations against the decision of the CEO to approve Optus Stadium as a venue. By the appeal, Ms Randazzo submitted that the approval allows VenuesWest to cause unreasonable noise emissions for an unlimited number of events each year. She said the open ended nature of the approval, in combination with other noise sources in the area, is unreasonable and will impact on her (and other residents in East Perth) unfairly.

¹ The CEO has delegated authority under section 20 of the *Environmental Protection Act 1986* (EP Act) to consider applications of this kind.

The appeal was investigated by the Office of the Appeals Convenor, which included discussions with the appellant (and other concerned neighbours invited by the appellant); written advice from the City of Perth and Town of Victoria Park; written response to the appeal from the operator; and technical advice from the Noise Branch within the Department of Water and Environmental Regulation (DWER).

This report is the Appeals Convenor's formal report to the Minister for Environment under section 109(3) of the *Environmental Protection Act 1986* (the EP Act).

STATUTORY CONTEXT

Regulation 7 of the Noise Regulations provides that a noise emitted from any premises or public place must not cause or significantly contribute to a level of noise that exceeds the 'assigned level' when received at other premises.

Regulation 8 sets out the 'assigned noise levels', which vary depending on the maximum noise levels deemed acceptable at different categories of premises, and an assessment methodology for determining whether assigned levels are met.

In the context of the current appeal, the appellant's residence is a sensitive land use, and the assigned levels in regulation 8 apply within 15 m of the residence, subject to any relevant exemption or approval.

Regulation 19B(2) provides that the occupier of a venue may apply to the CEO for approval of the venue as a venue at which a number of notifiable events may be held during a period specified in the approval. As noted above, a 'notifiable event' means a public sporting, cultural or entertainment event that is likely to result in noise emissions, other than community noise, that do not comply with the standard prescribed under regulation 7. 'Community noise' is defined in Schedule 2 of the Noise Regulations to include noise emitted by spectators at a sporting venue and noise from a recreational or educational activity from a school or other educational facility.

Before making a decision on an application under regulation 19B(2), the CEO is required to provide a reasonable opportunity for certain persons to make submissions on the proposal, including the Chief Health Officer, the occupier of any noise sensitive premises within one kilometre of the premises, and any local government in which noise emissions from the premises are likely to exceed the assigned levels in regulation 7.²

An approval may be made subject to such conditions as the CEO considers appropriate, but must include certain minimum conditions, including that there be a limit on the number of notifiable events and that the approval specify the earliest time at which a notifiable event held at the venue may begin and the latest time at which a notifiable event may end.³

DWER has published guidance on the application of the Noise Regulations in respect to a sporting, cultural and entertainment venue. The guidelines relevantly identify the following policy basis for venue approvals under regulation 19B(7):

The Regulations set assigned (allowable) noise levels for various types of premises that receive noise from other premises. Those levels are set to provide a good level of protection for the noise receiver. However, many activities in the community cannot reasonably and practicably meet the assigned levels, but retain a degree of acceptance, either because of the temporary nature of the activity or the perceived community benefit.⁴

² Regulation 19B(8), Noise Regulations.

³ Regulation 19B(12), Noise Regulations.

⁴ Department of Environment Regulation, *Guide to management of noise from sporting, cultural and entertainment venues*, October 2014, page 2.

CONSIDERATION

By her appeal, Ms Randazzo raises three concerns, which are summarised as follows:

1. uncertainty as to number and type of events approved
2. approved noise levels are above health guidelines
3. adequacy of the predictions of noise levels in East Perth

Overall, Ms Randazzo submitted that she:

... is very positive towards the Stadium and the professionalism by which it is operated ... the Appeal is simply out of concern felt by many residents directly impacted by the Stadium Noise to suggest workable outcomes and solutions to avoid harmful noise levels to nearby residents.⁵

Ms Randazzo also raised concern about the level of regulation of other sites in the area, and the resultant cumulative noise impacts. As these issues do not directly relate to the venue approval for Optus Stadium, they are noted separately in 'Other Matters' at the end of this report.

Within this context, the three issues of concern to the appellant will be considered in turn.

Uncertainty as to number and types of events approved

By this element of the appeal, Ms Randazzo submitted that:

[T]here is a lack of clarity around the stratification of events [and] number of events ...

It is a concern that the Town of Victoria Park has given the Applicant carte blanche approval for a seemingly unlimited number of events at a harmful 105 to 115 dB noise level.⁶

The appellant indicated her understanding that the only event type limited by the approval were for major entertainment events (being two events each 12 month period), and all other events were effectively unlimited in number. The appellant was of the view that the effect of this arrangement would create an incentive for the operator to classify what could normally be a major event to that of a medium event to allow an effectively unlimited number of events.

In response to this issue, DWER clarified that the venue approval does not allow an unlimited number of events:

- condition 3 specifies that no more than 10 combined notifiable events (major, medium and minor) are allowable in a 12 month period
- conditions 29 and 40 limits the number of major and motorsport events to two of each, within a 12 month period
- condition 4 limits the number of notifiable events permitted in any consecutive days, to four.

DWER advised that within a 12 month period (and noting that only four events can occur within 30 days), the 'worst case' scenario for events approved under Regulation 19B at Optus Stadium would be limited to the following:

- two major entertainment events
- two motor sporting events
- six medium events
- 65 sporting events

⁵ S. Randazzo, Appeal 011/20, 2 March 2020, page 2.

⁶ Ibid, page 3.

While a venue approval under regulation 19B(7) does not preclude VenuesWest from obtaining additional approval of events under regulation 18, the CEO cannot approve more than two regulation 18 events per venue per year unless the majority of occupiers on whom the noise emissions will impact have no objection to the holding of additional events.⁷ In addition, DWER's Venue Noise Management Guide notes that the discretion to approve Regulation 18 events at 19B approved venues should be exercised with caution so as to not undermine the integrity of the venue approval process or the community's expectation with regards to the management of noise from the venue. To this end, the Venue Noise Management Guide suggested that should an additional event outside of a 19B venue approval be required, it should be done in lieu of an approved notifiable event.⁸

Conclusion

Based on the above, it is considered that the approval does limit the number of all event types at the Stadium, and as such, it is not open ended in the manner suggested by the appellant.

Noise levels above health guidelines

By this element of the appeal, Ms Randazzo submitted that the sound levels specified in the approval are above levels that are safe to the public:

Not only could the environment be seen as an unsafe environment for attendees ... but it exposes the residents like me to a potentially unacceptable high number of events and noise levels contrary to sound health warnings about anything over 85 to 90dB.⁹ This issue is understood to relate to the approved sound levels set out in the approval in respect to special entertainment event.

In its advice on this aspect of the appeal, DWER acknowledged that the permitted noise levels for each category of event are not obvious in the approval conditions. DWER advised that although the maximum sound levels in the conditions are set at 105 dB (A)¹⁰ and 115 dB (C)¹¹ at the mixing desk for all types of events, it is the distance of the mixing desk relative to the front of stage primary loud speaker that differentiates the noise limit for each event category.

The distance of the mixing desk relative to the front of stage primary loud speaker locations for any major or medium event are set out under condition 27 as:

- not more than 50 m
- between 51 and 60 m; or
- between 61 and 70 m

and under condition 28 for minor events as:

- not more than 25 m.

In order to clarify how the distances described above differentiate noise levels for each event category, DWER in its advice provided the following table that 'normalised' the sound level limits at a fixed distance of 50 m. Table 2 shows that at a 'normalised' distance of 50 m, minor events are limited to between 99 and 102 dB(A) (dependent on stage configuration) and, medium and major events are limited to 105 dB(A).

⁷ Regulation 18(11), Noise Regulations.

⁸ Above (3).

⁹ S. Randazzo, Appeal 011/20, 2 March 2020, page 3.

¹⁰ A - weighted noise level is filtered to represent the sound perceived by the human ear and takes into account that people are not as sensitive to lower frequencies as they are to higher frequencies.

¹¹ C - weighted noise levels are almost unfiltered and better reflects low frequency or bass component of sound. C-weighted levels are usually used for peak measurements and also in entertainment noise measurement, where the transmission of bass sounds can be problematic.

Table 2 – Approved A-weighted sound levels (distance from loudspeakers) (Source: DWER 2020)

Event type	Limit as stated in the approval	Limit 'normalised' at 50 metres (m)
Minor Event	105 dB(A) @ 25 m	99 dB(A) to 102 dB(A) @ 50 m *
Medium/Major Event	105 dB(A) @ 50 m, or 104 dB(A) @ 51-60 m, or 103 dB(A) @ 61-70 m	105 dB(A) @ 50 m

*Dependent on the stage configuration

Noise levels are traditionally set at mixing desks as these can be more easily monitored and enforced by City Officers or event managers.

In relation to the appellant's submission that the sound levels set at the mixing desk should be approximately 10 dB lower than the approved levels, DWER advised that:

... for a concert event at a large venue such as Optus Stadium, it would be typical for the mixing desk levels to range from 95 dB(A) to 105 dB(A) to create an 'acceptable' concert experience. C-weighted levels at the mixing desk, which are additionally set to control the low frequency (bass) content, might typically range from 110 dB(C) to 118 dB(C). Notwithstanding, decision-makers also need to weigh up the impact of an event on nearby sensitive receivers.

The Department [has] ... experience in the management of outdoor concert noise from the perspective of appropriate outdoor receiver levels. Over many years, the Department issued approvals for some of the largest touring music festivals at Claremont Showgrounds, including the 'Big Day Out' and 'Soundwave' events as well as smaller, shorter concert events.

...

Generally, concerts events that have receiver noise levels below 65 dB(A) are considered to cause moderate to minimal impacts for most receivers and few complaints. As noted on page 2, the predicted (modelled) noise levels likely to be received by residents in Vanguard Terrace East Perth are about 50 dB(A) for a west or north stage configuration, and about 65 dB(A) for a centre stage configuration. Noise levels from individual concert events likely to be received by residents of East Perth are considered by the Department's noise experts to be reasonable and acceptable.¹²

VenuesWest advised that outdoor rock concerts need to operate at sounds of at least 95 dB(A) at the mixing desk to achieve an acceptable atmosphere. The sound mixing operators for many artists may wish to operate at higher levels typically up to 105 dB(A) at the mixing desk. Enforcing the appellants requested noise levels would limit Optus Stadium's ability to host concerts, where the noise limits would restrict the hirers' and artists entertainment and aesthetic requirements for the staging of events.

Conclusion

Based on the foregoing, noise emissions authorised under the approval have not been identified by DWER as presenting any health risk, and are consistent with the levels applied to similar events at other venues over a number of years.

Adequacy of the assessment of noise levels in East Perth

This element of the appeal is related to the previous point: in short, the appellant questioned the adequacy of the predicted impacts from noise received within East Perth:

In my opinion, not enough independent testing has been done by qualified acoustic engineers to measure the actual carriage effect of the sound from the Stadium to the residents directly across the Swan River in East Perth. Given certain wind and weather factors it may indeed be

¹² DWER, Response to appeal 011/20, 20 April 2020, page 5.

that the music is amplified as it travels across the river unimpeded by any physical barriers and blasts straight into the houses along Vanguard Terrace ... and other streets in the immediate area. To have up to eight (8) continuous hours of noise at levels possibly over 85dB this side could indeed do harm to the receivers of such elevated noise over such an extended period.¹³

Noise modelling was undertaken by an accredited acoustic consultant to assess the impact of noise from special events at Optus Stadium on surrounding receptors in support of the application for approval. The noise modelling was carried out using a computer program *SoundPLAN 7.4*, which takes into consideration meteorological conditions, expected music volumes, design of the public address system, barrier effects from buildings, land contours and various event scenarios (stage configurations and event size).

In regard to the quality of the modelling, DWER advised that the consultant firm is a member of the Association of Australian Acoustical Consultants and its consultants are members of the Acoustic Society. DWER's noise experts noted that the consultant's work is well regarded and the modelling presented is considered appropriate.

The noise modelling predicted noise levels at various receivers including Vanguard Terrace in East Perth for various stage configurations and noise levels. The modelling was undertaken for all wind directions and present a 'worst' case scenario'. DWER provided the following table (Table 3) summarising predicted noise levels at Vanguard Terrace:

Table 3 – Modelled noise levels, Vanguard Tce, East Perth *(Source: DWER, 2020)*

Stage Configuration	Modelled Noise Levels (L _{Aeq} (5 mins))
West	50 dB (A)
North	50 dB (A)
Centre	60 – 65 dB (A)

Modelling predicted that noise levels at Vanguard Terrace will not be higher than 50 dB(A) for a west and north stage configuration, while a centre stage configuration is expected to have a noise level of no higher than 65 dB(A). Based on its experience, DWER's noise experts considered that these levels are reasonable and acceptable. In any event, condition 25 of the approval provides that all events shall be held with a west configuration, unless otherwise considered justified by the Town of Victoria Park.

In relation to the lower bass (or the 'doof doof') noise experienced by the appellant, DWER advised that the C-weighted limit on sound levels take the low frequency levels into account. This is consistent with the approach undertaken by the Brisbane City Council who found that noise complaints often relate to low frequency (bass) component of the music. Marchuck and Henry (2016) noted that:

Using an A-weighted concert level can often allow bass heavy music to comply with 100dBA at the mixer location and 70dBA at the receptor while still emitting particularly intrusive bass noise. This is a particular issue for music genres where the highest octave bands are 63Hz or 125Hz with decreasing amplitude at higher frequencies, such as Electronica, Hip Hop and Reggae (Hayne, Mee & Rumble 2005). A review of mixing desk noise measurement data in Brisbane found a typical difference between C-weighting and A-weighting of 10dB when

¹³ S. Randazzo, Appeal 011/20, 2 March 2020, page 4.

measured at the mixing desk. Hence, a 110dBC criterion is applied by Brisbane City Council along with the 100dBA criterion.¹⁴

DWER also provided the following comparative approved noise levels at sensitive receptor locations from concerts and events in other jurisdictions (Table 4).¹⁵

Table 4 – Comparative concert etc. noise levels, Australia and UK (Source: DWER 2020)

Policy Document, Organisation	Outdoor at a sensitive receptor noise level
Guidelines for concerts, events and organised gatherings December 2009 (Western Australia Department of Health, 2009)	55 dB(A) – 75 dB(A)
State Environment Protection Policy, Control of Music Noise from Public Premises) No. N-2 (Environment Protection Authority Victoria, 1999)	65 dB(A)
Queensland Environmental Protection Act (Queensland Government, 1994)	70 dB(A)
Entertainment Venues and Events Local Law (Brisbane City Council, 1999)	70 dB(A)
Noise Council code of practice on environmental noise at concerts (UK Chartered Institute of Environmental Health, 1995)	65 dB(A)

(Source: DWER, Appeal 011/2020 s 106 Report, page 4)

To provide context on the experience for various sound levels, Safe Work Australia provides the following common noise sources and typical sound levels: 140 dB a jet engine (at 30 m), 110 dB a chainsaw, 90 dB a lawn mower, 70 dB is equivalent to a loud conversation, 60 dB a normal conversation, 40 dB quite radio music and 30 dB whispering.¹⁶

In order to provide context around annoyance levels of noise from events, DWER referred to the Western Australian Department of Health Guidelines¹⁷ which provided typical levels of complaints against levels of noise. The Guideline states that for sound levels:

- below 55 dB(A) there are generally no complaints
- between 55 to 65 dB(A) few complaints, increasing in sensitive areas and later hours
- 65 to 75 dB (A) considerable levels of complaints, less in tolerant areas

In response to the appeal, VenuesWest advised that monitoring data was collected for the past four concerts held at Optus Stadium authorised under separate approvals (Taylor Swift, U2, Queen and Eminem) and it is noted that the levels recorded were no higher than those considered by DWER as acceptable.

In order to ensure that noise levels at 'notifiable events' are appropriately managed, the conditions set out requirements for notification, complaints, monitoring and post event community consultation for Entertainment Special Events and Motor Sport Events.

In relation to notifications, the conditions require that no later than seven days prior to an Entertainment Special Event or Motor Sport event, VenuesWest must publicise the start and

¹⁴ Marchuk, A. and Henry, F. 2016. *Regulatory Strategies for Managing Noise from Outdoor Music Concerts*. Proceedings of ACOUSICS 2016. Brisbane. The Australian Acoustical Society, page 3.

¹⁵ Ibid, page 2.

¹⁶ https://www.safeworkaustralia.gov.au/system/files/documents/1702/managing_noise_preventing_hearing_loss_work.pdf

¹⁷ Department of Health (2009). Guidelines for concerts, events and organized gatherings. Government of Western Australia, December 2009.

finish times and the procedure for complaints to the general public, the occupiers for which noise emissions are expected to exceed 60 dB(A), the adjoining local governments set to receive sound levels in excess of 60 dB(A) from the event and the City of Perth, City of Belmont, City of Bayswater and the City of Vincent.

Conditions 13 to 16 establish a complaint response service for all notifiable events and requires VenuesWest to provide two telephone lines to be answered by an operator and is to be attended at all times during a notifiable event.

The monitoring requirements established by the conditions are set out under the following conditions:

- Condition 6: requires the engagement of an acoustic consultant for the purpose of monitoring sound levels during an Entertainment Special Event;
- Condition 7: requires that three days prior to a notifiable event, the name and contact telephone numbers of the person representing the Acoustic Consultant and VenuesWest, who are present, in control of sound levels and contactable during a notifiable event must be provided to the Town of Victoria Park.
- Conditions 8 and 9: require continuous monitoring of sound at the mixing desk 5 minutes prior to an entertainment special event until 5 minutes after the entertainment special event.

Within ten (10) days following an Entertainment Special Event, a detailed acoustic report is required to be prepared by an acoustic consultant to the CEO of the Town of Victoria Park. The conditions specify the details to be provided in the report including methodology used for monitoring, monitoring results, non-compliances and complaints.

In addition to the above, a Noise Management Plan must be submitted to the Town of Victoria Park's CEO no less than 14 days prior to an Entertainment Event or Motor Sport event detailing how noise will be managed and monitored for that specific event.

While the specific monitoring locations are not detailed in the conditions, the VenuesWest advised that as part of its noise monitoring for entertainment events, it is typical for an independent acoustic consultant to be present to monitor the noise levels at the mixing desk, from the various fixed monitoring locations, including Vanguard Terrace East Perth and have 'roaming' noise monitoring in response to complaints.

In relation to monitoring of noise levels during events, DWER noted that while modelling yields very good predictions of worst case (positive wind) noise levels, it expects decision makers of any future approvals for Optus Stadium to consider the results of monitoring of events under the approval to verify and refine the modelling ahead of any revised approval.

During the investigation, the appellant noted that East Perth residents would have some comfort if they had verification that the noise levels emitted during a music event were compliant with the approved noise levels. To this end the appellant requested if the noise monitoring data for events could be made publicly available.

The approval is valid for a period of three years, which is the recommended minimum timeframe for approval of a new venue.¹⁸ The approval letter specifies that any future applications must be accompanied by noise modelling, details of complaints received and a community survey report.

¹⁸ Department of Environment Regulation (2014). *Guide to management of noise from sporting, cultural and entertainment venues Environmental Protection (Noise) Regulations 1997*. Government of Western Australia, October 2014.

The Town of Victoria Park and VenuesWest were both amenable to making the noise monitoring data publicly available for Entertainment Special Events. Noting that the community will have input into future approvals, it is considered that it would be appropriate and beneficial for the same community to have access to objective data around the same time as they experienced an event.

Conclusion

Taking the above into account, it is considered that the assessment carried out by VenuesWest and as assessed by the Town of Victoria Park was appropriate in this case. The three year approval provides an opportunity for further monitoring to be undertaken to verify modelling and provide greater certainty about noise impacts to sensitive receptors, including to residents in East Perth represented by the appellant.

OTHER MATTERS

The appellant raised some additional points that are not directly related to the approval the subject of the appeal, but which are noted below together with agency responses where appropriate.

The appellant requested a review of the Noise Regulations and the EP Act be undertaken to update prescribed noise levels, detail length of time and curfew hours to cover most noise situations, with special waivers for situations that fall outside of the stipulated noise levels. The appellant submitted that the legislation does not appropriately manage noise impacts from multiple venues, in particular where approvals fall into the remit of different neighbouring local authorities.

In particular, the appellant expressed concern about the cumulative noise impacts in the East Perth area due to the increase in number of venues and events nearby, including Camfield Tavern, a public viewing screen external to Optus Stadium, Burswood Park and MacCallum Park, Gloucester Park and the Western Australian Cricket Association (WACA) grounds. The appellant submitted that in this case the decision to issue the approval for Optus Stadium ought to have been made between the Town of Victoria Park and the City of Perth.

In relation to the adequacy of Noise Regulations, as noted by DWER:

... regulation 19B is a 'special case' approval process available to venues that wish to hold regular events that may exceed the assigned noise levels under the Noise Regulations. The venue approval sets out the allowed numbers of events, time limitations, noise limits and so on, therefore, providing certainty to the venue and the community as to the level of activity that the venue can sustain.¹⁹

It is understood by DWER's response to the appeal, the process for gaining approvals under regulation 19B is rigorous and the conditions of the approval have been workshopped in consultation over a two year period with state and local government. DWER advised that among other requirements, VenuesWest engaged Patterson Research Group to complete a survey of residents who live within a two kilometre radius of Optus Stadium to inform the application and approval process.

The community survey reported that 950 survey invitations were delivered into the East Perth precinct and 125 responses were received. DWER advised that when asked to indicate the number of open air concerts that would be acceptable at Optus Stadium over a 12 month period, responses indicated:

- 70 per cent (%) would accept ten or more
- 71% would accept eight

¹⁹ DWER, Response to appeal 011/20, 20 April 2020, page 3.

- 83% would accept six
- 92% would accept three.

DWER also advised that, in accordance with regulation 19B(8):

... the relevant local governments CEO must give interested parties '*a reasonable opportunity to make a submission on whether the venue should be approved*'. The local government's CEO is required to consult noise affected neighbouring local governments and occupier of sensitive premises within one kilometre of the venue among others.

DWER and the Town of Victoria Park advised that prior to making its decision the CEO undertook its own public consultation separate from the VenuesWest survey work. The Town of Victoria Park advised that it consulted with:

- Local government authorities including the Town of Victoria Park Council, the City of Perth, the City of Belmont, City of Vincent and the City of Bayswater.
- Various State Government Departments such as DWER, Health and Liquor Licencing; and
- Owners and occupiers of noise sensitive premises within a 2 km radius of Optus Stadium.

The Town of Victoria Park advised that in mid-2019 it sent out 3,065 consultation letters to owners and occupiers of premises within 2 km radius of Optus Stadium. Of these 33 responses were received with 8 supporting the application, six supporting with concern and 18 opposing the application.

In relation to the appellant's concerns that the cumulative impacts of noise from Optus Stadium and surrounding venues, the City of Perth, the Town of Victoria Park and DWER's Noise Branch all advised that they are aware of this issue and have established a working group to collectively investigate and address these concerns.

CONCLUSIONS AND RECOMMENDATION

For the reasons stated in this report, it is considered that:

- the approval appropriately limits the number of events that can be held at the Stadium in each 12 month period
- the predicted noise levels are not such that raise concerns for public health
- the assessment and predictions of impact at East Perth were appropriate, and that additional ambient monitoring will be undertaken to confirm the accuracy of the predicted impacts, including at Vanguard Terrace in East Perth.

It is also noted that both the Town of Victoria Park and VenuesWest have indicated that they have no objection to the results of noise monitoring undertaken under the approval being communicated to the public in a timely way. In relation to cumulative impacts, DWER, the City of Perth and the Town of Victoria Park are understood to have formed a working group to consider issues associated with multiple venues in the area.

Based on the above, it is recommended that the appeal be dismissed.

Emma Gaunt
APPEALS CONVENOR

Investigating Officers:

Tonya Carter (Senior Appeals Officer) and Jean-Pierre Clement (Deputy Appeals Convenor)