

# Environment Protection Amendment Regulation 2019 (No 1)

SL2019-32

## Regulatory Impact Statement

### Introduction

This regulatory impact statement (RIS) provides an analysis of the regulatory impact of amendments to the *Environment Protection Regulation 2005* (the Regulation) as approved by the Executive under section 166 of the *Environment Protection Act 1997* (the Act).

The amendments seek to extend day-time noise standards in the city centre, town centres, and group centres on Friday and Saturday evenings.

### The authorising law

Noise generating activities are governed and regulated by the Regulation made under the Act.

The objects of the Act are to protect and enhance the quality of the environment and prevent environmental degradation and risk of harm.

Under the Regulation, it is an offence to make noise causing environmental harm<sup>1</sup>. The Regulation specifies noise standards or levels for each noise zone across the ACT as dictated by Territory Plan land uses.

### Policy objectives

The objective of the Regulation amendments is to maintain appropriate and suitable noise standards that reflect community expectations and balance the implications of ongoing urban renewal in mixed use precincts with the preservation of residential amenity.

This balance is achieved through the existing regulatory framework for noise standard; its renewal allows it to remain contemporary. The amendments therefore serve this balance by meeting community expectations and allowing entertainment venues in certain areas to operate at extended day-time noise standards on weekends without significantly affecting the amenity of the area for local residents.

It meets the objects of the Act by continuing to place limitations on noise pollution and mitigating environmental harm in a reasonable manner, while allowing social and economic activity to occur.

### Alternative measures

Three options have been identified in considering how the desired objectives might be achieved:

- option 1: make no changes to the existing noise standards

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<sup>1</sup> **Environmental harm** means any impact on the environment as a result of human activity that has the effect of degrading the environment (whether temporarily or permanently).

- option 2: non-regulatory approaches through other policy arrangements
- option 3: statutory approach by amending the Regulation

### Option 1: no changes

This option would see no changes to existing noise regulation and does not support the overarching policy objectives in achieving a balance between urban amenity and noise pollution.

A review of noise levels in the city, town centres and group centres by a third-party consultant found that noise generation was higher in some of these areas on weekends from entertainment venues and licensed premises. Noise regulations that do not remain inflexible to changing community expectations and business needs may stifle urban renewal and economic growth in these urban centres.

### Option 2: Non-regulatory approaches

A non-regulatory approach to extend day-time noise standards, particularly in relation to amplified music, is inappropriate because noise as a pollutant is regulated under the environment protection legislation.

A policy approach would not be enforceable and would therefore not provide certainty to business or the community.

### Option 3: statutory approach (recommended)

As the amendments seek to relax the existing regulations around noise, maintaining a statutory approach remains the most appropriate option. It provides for compliance and enforcement activities to continue to control noise pollution and protect residential amenity. Amending the regulation to extend day-time hours supports existing night-time activity and future urban activation.

Current operation of night-time businesses offering amplified music entertainment and surrounding residents will experience negligible impact as the noise monitoring studies of these areas found the general background noise levels in these areas now continue later in the evening on Friday and Saturday nights.

Option 3 is the recommended option.

## Costs and Benefits

An analysis of the costs, benefits and impacts to the relevant stakeholder groups related to the regulation amendments demonstrates that they are negligible relative to anticipated benefits.

The relevant stakeholders are identified as:

- entertainment venue owners and operators
- members of the public utilising mixed-used precincts and associated entertainment venues
- live music industry
- local residents
- unit owners
- developers
- the Environment Protection Authority (EPA); the regulator.

Table 1 provides the identified costs and benefits associated with the regulation amendments to stakeholders.

Impacts to residents in, or nearby, the city, town and group centres, are anticipated. Impacts to health and wellbeing may be experienced (for example through disturbed sleep or reduced balcony/patio amenity) due to amplified music or associated patronage<sup>2</sup>.

While these impacts may occur, many parts of the Canberra community have an expectation that these urban areas should provide entertainment facilities into the evening on the weekends. Benefits derived from a stimulated economy demonstrate how the amendments achieve a balance in locations that offer a variety of services and facilities. It is expected that parts of the community will be attracted to these areas to reside, enjoy entertainment, and/or conduct business.

*Table 1 Summary of costs and benefits associated with the relevant stakeholders affected by the regulation amendments.*

<b>Stakeholder</b>	<b>COSTS</b>	<b>BENEFITS</b>
Entertainment venues	<ul style="list-style-type: none"> <li>• None identified</li> </ul>	<ul style="list-style-type: none"> <li>• Supports business through reduced restrictions on Friday and Saturday evenings</li> </ul>
Live music industry	<ul style="list-style-type: none"> <li>• None identified</li> </ul>	<ul style="list-style-type: none"> <li>• Supports the industry through reduced restrictions on Friday and Saturday evenings</li> </ul>
Community	<ul style="list-style-type: none"> <li>• None identified</li> </ul>	<ul style="list-style-type: none"> <li>• Meets community expectations and actual activity levels. Supports night-time activity through reduced restrictions on businesses providing entertainment involving amplified music.</li> </ul>
Local residents	<ul style="list-style-type: none"> <li>• Potential increased disturbance (including to quality of sleep) by noise generated by amplified music and patronage associated with entertainment venues.</li> </ul>	<ul style="list-style-type: none"> <li>• Increased enjoyment associated with living in a mixed-use precinct with access to amenities and a vibrant night-time culture.</li> </ul>
Unit owners	<ul style="list-style-type: none"> <li>• Flow-on effects to leasing arrangements where tenants perceive increased noise disturbance.</li> </ul>	<ul style="list-style-type: none"> <li>• Potential attraction of tenants seeking convenience and a lifestyle offered by mixed use precincts.</li> </ul>

<sup>2</sup> The Act does not apply to noise made by people or vehicles on a road.

<b>Stakeholder</b>	<b>COSTS</b>	<b>BENEFITS</b>
Developers	<ul style="list-style-type: none"> <li>• None identified; no additional requirements to existing building standards associated with regulation amendments.</li> </ul>	<ul style="list-style-type: none"> <li>• Potential attraction of tenants seeking convenience and a lifestyle offered by mixed use precincts.</li> </ul>
The EPA	<ul style="list-style-type: none"> <li>• Potential increase in resourcing and administration if noise complaints increase and require inspection and enforcement.</li> </ul>	<ul style="list-style-type: none"> <li>• Reduced breaches by entertainment venues on weekends.</li> </ul>

## Consultation

The proposed amendments were subject to public consultation between 9 August and 22 September 2019. Members of the public were invited to participate in an online survey (totaling 216 respondents) and to make written submissions (five were received) via the ACT Government's community engagement website (YourSay). A media release was published by the Minister, and engagement through social media platforms advertising the YourSay campaign reached 2500 people.

The majority of the survey participants supported the proposed amendments.

All written submissions were from residents perceiving the amendments to facilitate increased noise pollution. Concern about residential building standards' and their ability to mitigate noise were also raised.

## Conclusion

The statutory option to amend the regulation is the preferred option to achieve the overarching policy objective to balance urban activity and residential amenity associated with noise. The changes stem from a review of existing noise standards that have been in place since 1998.

Relaxation of the regulation is not expected to increase environmental harm from noise as the noise limit itself is not changing and the background noise levels in our urban centres now continue later into the evening than they did when the regulations were first introduced. Noise attenuation standards in residential buildings will not require further enhancement to mitigate noise pollution.