



CITY OF VINCENT

SUPPLEMENTARY AGENDA

**Council Briefing
4 February 2020**

Time: 6pm
Location: Administration and Civic Centre
244 Vincent Street, Leederville






David MacLennan
Chief Executive Officer

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5 STRATEGY & DEVELOPMENT

5.6 SUPPLEMENTARY REPORT: COMMENT ON DRAFT WAPC POSITION STATEMENT: SPECIAL ENTERTAINMENT PRECINCTS AND DWER CONSULTATION PAPER

- Attachments:**
1. **City of Vincent Submission - Planning for Entertainment Noise in the Northbridge Area November 2018** [↓](#) 
 2. **WAPC Draft Position Statement - Special Entertainment Precincts November 2019** [↓](#) 
 3. **DWER Consultation Paper - Managing Amplified Noise in Entertainment Precincts November 2019** [↓](#) 
 4. **City of Vincent Submission February 2020 - WAPC Special Entertainment Precincts** [↓](#) 
 5. **City of Vincent Submission February 2020 - DWER Managing Noise in Entertainment Precincts** [↓](#) 

RECOMMENDATION:

That Council:

1. **ENDORSES Attachments 4 and 5 as the City of Vincent's submissions in response to the Western Australian Planning Commission's draft Position Statement: Special Entertainment Precincts and the Department of Water and Environmental Regulation's Managing Amplified Music Noise in Entertainment Precincts Consultation Paper, respectively; and**
2. **NOTES the City will forward the submissions to the Western Australian Planning Commission and Department of Water and Environmental Regulation.**

PURPOSE OF REPORT:

To consider endorsing the City's submission on the Western Australian Planning Commission's (WAPC) draft Position Statement: Special Entertainment Precincts and the Department of Water and Environmental Regulation's (DWER) Managing Amplified Music Noise in Entertainment Precincts Consultation Paper.

BACKGROUND:

In September 2018 the Department of Planning, Lands and Heritage sought comment on a Consultation Paper – Planning for Entertainment Noise in the Northbridge Area. The September 2018 paper explored six key reform areas as follows:

- Agent of change – A principle that sees primary responsibility for sound attenuation in buildings resting with the party that is making changes to the environment, such as new development and redevelopment, and would apply to both noise sensitive and noise emitting developments;
- Special Control Areas (SCA) in Local Planning Schemes - Designation of a SCA will apply special planning controls to protect the health and amenity of residents and the viability of entertainment venues; and maintain the special character of the entertainment precinct;
- Noise Impact Assessments - Planning proposals for new noise emitting and noise receiving developments are required to undertake a noise assessment to determine the level of noise to be attenuated through design and construction measures;
- Construction Standards - Planning proposals for new noise emitting and noise receiving developments are required to demonstrate how construction and design will achieve acoustic attenuation to comply with the standards set in Noise Regulations;
- Notice on title – Requirement for notice on title for all approved planning proposals affected by entertainment noise; and
- Amendments to Noise Regulations - Indoor areas protected only (with doors and windows closed). This is in contrast to the existing principles of the *Environmental Protection Act 1986*, where the noise emitter, for example a live music venue, is responsible for ensuring sound levels received at a noise

sensitive premises, such as a residence comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* (the Noise Regulations).

The City provided a submission on the discussion paper in November 2018 supporting the State Government's intention to further investigate options to better manage land use conflict and amplified music noise in entertainment precincts. This included requesting the Department to ensure an outcome that is scientifically robust and appropriately balances the desire to support existing and future entertainment venues whilst adequately managing the noise impacts on sensitive land uses. The City's submission on this paper is included as **Attachment 1**.

The WAPC has since reviewed all comments received and produced a draft Position Statement: Special Entertainment Precincts. A special entertainment precinct is proposed to comprise a diverse mix of land uses, including entertainment venues, which contribute to an active night-time economy. This document was released in November 2019 and a copy is included as **Attachment 2**. The draft position statement no longer aligns with the agent of change principle and instead it sets out the WAPC's position on how entertainment precincts could be designated as SCAs in a local planning scheme.

To complement the WAPC's draft position statement, DWER has concurrently released the 'Managing Amplified Music Noise in Entertainment Precincts' Consultation Paper. A copy of the document is included as **Attachment 3**. The paper provides three options and/or proposed changes to the Noise Regulations that may be required to facilitate the implementation of the draft position statement from the WAPC. The State Government are currently seeking comments on both documents.

DETAILS:

A summary of the key proposals in each document is included below.

1. WAPC Position Statement

Key Proposals

The draft Position Statement provides guidance to local governments to better manage land use conflicts and amplified music noise in entertainment precincts through a local planning scheme. It is suggested that this be done through a scheme amendment to introduce a special control area (SCA).

In order to support the establishment of a special control area, the following material is likely to be required:

- a robust problem definition statement, including current noise levels and any entertainment noise-related complaints;
- evidence of consultation with the local community and adjoining/impacted local governments;
- demonstration of a significant night time economy supported by an economic assessment;
- evidence of an established strategic vision for the precinct, including the existing and/or intended land use mix and the potential for future entertainment venue development; and
- specific performance criteria, development requirements and/ or guidance to be applied to development through a local planning scheme, redevelopment scheme or local planning policy.

These matters would be addressed by the proponent for such an amendment which could be the local government or an applicant. The position statement will guide the WAPC's decisions regarding proposed scheme amendments to introduce SCAs. It does not require SCAs to be prepared or provide guidance on where they may be appropriate.

The designation of a SCA/special entertainment precinct would address the likes of the following:

- Establishment of a maximum amplified music level for entertainment noise. This would be measured at street-level, rather than at a receiver (i.e. residence);
- A requirement that new 'noise-sensitive' developments (e.g. residential) be planned, designed and constructed to achieve a set level of 'building transmission loss' to achieve a maximum internal noise level. No noise level would apply to external areas;
- Conversely, new noise emitting premises (e.g. entertainment venues) would need to be designed and constructed to ensure compliance with the set amplified music noise level is achieved;
- Existing entertainment venues emitting amplified sound would need to ensure compliance with the set amplified music level of the special control area;

- The special control area would contain requirements for a noise assessment to be undertaken for all new development. These assessments would determine the attenuation measures necessary and would be prepared by a qualified acoustic consultant; and
- A Section 70A Notification would be included as a condition of development approval for all new noise-sensitive premises, informing prospective buyers/owners of the likelihood of higher noise levels within the precinct.

Key Comments

Any change to the City's Local Planning Scheme of this nature would require significant investigation to determine whether any location was suitable, and subsequently undertaking a noise study to establish an appropriate sound level for that location. A change of this nature in the City's scheme would shift the responsibility of establishing suitable sound levels from the State Government to Local Government. This represents a significant shift, which has not been accounted for, in workload and responsibility to Local Government taking on the regulatory burden and responsibility that currently lies with the State Government.

The City would like to work with the Western Australian Planning Commission and the Department of Water and Environmental Regulations to address the following matters prior to finalising the position statement:

	Matter	Recommendation
1.	The initial paper by the WAPC sought to protect established live music venues in line with the principles of Creative WA, however the proposed changes have been developed to cater to large entertainment precincts with a high concentration of entertainment venues (namely Northbridge). It seemingly fails to accommodate for isolated but significant local venues which cannot reasonably be considered to represent entertainment precincts, but which nevertheless contribute significantly to the cultural economy and provide for local activity and diversity.	That the Commission, in consultation with the Department of Water and Environmental Regulations, undertake further investigation to establish a suitable option that balances the needs of supporting dispersed but culturally and economically significant live entertainment venues, with the needs of noise sensitive receivers in their locality.
2.	The position statement fails to address the conflict(s) that will exist where noise sensitive land uses are constructed or are already existing adjacent to a special control area. In the City of Vincent's case, the proposed special control area of the City of Perth (Northbridge) directly abuts residents of Vincent along Newcastle Street. It is not clear how this would be managed.	That the Commission, in consultation with the Department of Water and Environmental Regulations, investigate this conflict and provide a suitable solution prior to progressing with the position statement or amendments to the Noise Regulations. This includes providing guidance on investigation and enforcement with respect to cross boundary jurisdiction.
3.	The proposed approach will mean that existing noise sensitive premises within a designated entertainment precinct may experience higher than desirable noise levels. As the paper states, it is unlikely that these buildings have been adequately constructed or attenuated to accommodate for the higher sound levels of the precinct with any remediation costs to fall with the Owner.	That the City request the Commission engage with the Department of Water and Environmental Regulations to provide guidance as to how this may adequately be addressed.
4.	There is insufficient information to identify what support, if any, is proposed to be provided to Local Government in establishing set external sound levels of an entertainment precinct.	Recommended to provide support to Local Government to ensure a level of consistent implementation.
5.	The National Construction Code (NCC) outlines requirements for attenuating buildings. The Planning and Development Act outlines that Building standards prevail. Where a proposal needs to be attenuated to a high standard in accordance with a Local Planning Scheme how can the	Consideration and commentary regarding the NCC and how Local Government can require a higher standard of noise attenuation than that offered in the NCC.

	Matter	Recommendation
	City require that the high standard be maintained when the requirements of the NCC are lesser.	
6.	Establishing a special control area/entertainment precinct in a local planning scheme would require significant time and costs for the City.	As there is shift of roles/responsibilities from State to Local Government the City requests comment from the Department as to whether opportunities will be presented to seek grants or funding to undertake this work.

2. DWER Managing Amplified Music Noise

Key Proposals

To complement the draft position statement, the DWER Consultation Paper sets out three reform options, to provide for entertainment venues to exceed the assigned (prescribed) noise levels in the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations).

The current framework for regulation of noise is through the *Environmental Protection Act 1986* and the Noise Regulations and is designed to protect the health and amenity of receivers, while still allowing for some activities that cannot reasonably and practicably meet noise limits (such as temporary sporting, cultural and entertainment events). The Noise Regulations set out levels that are permitted to be received by particular land uses (i.e. residential, commercial, industrial) at particular times of day. The responsibility for compliance with acceptable noise levels rests with the generator of the noise, irrespective of which use was first established. The Regulations are currently administered by Local Government.

The paper provides three options to complement the proposed planning approach, for the management of amplified music in entertainment precincts, summarised below.

Option 1 – ‘Status Quo’.

This option involves no amendment to the Noise Regulations, with Local Government continuing to manage noise complaints as they already do. Protection for all noise sensitive receivers remains, land use planning conflicts may persist and noise emitters remain responsible for compliance with the Noise Regulations. In the context of an entertainment precinct, should a noise complaint be justified, a venue may be required to alter the way it conducts its business to comply with the Noise Regulations. As the paper outlines, the State Government is committed to exploring reforms to support live music and entertainment venues in WA. It is considered that Option 1 will not easily facilitate progress as land use conflicts may remain in areas trying to strike a balance between residential and commercial uses. As reforms to manage these issues has not yet occurred, the City has an existing Sound Attenuation Policy (7.5.21) which provides a clear framework to minimise the adverse impacts of noise for the sustainable co-existence of a mix of land uses within the City. As a guiding document, the policy has provided better outcomes for new developments in areas where higher sound levels can be expected. It is worth noting, the City experiences a low number of noise complaints associated with encroaching land uses. It is considered the Policy has played an important role in effectively managing this, in the context of new developments.

Option 2 – ‘agent of change principle and indoor assigned levels’.

If implemented, this option would require that the person or business responsible for a new development in an entertainment precinct, would bear the cost associated with the protection of noise-sensitive receivers (primarily residents). New entertainment venues would also have to design and construct their premises sufficiently to implement noise attenuation measures at their business and control sound. Furthermore, it proposes to set indoor sound levels as the basis for assessment against the Noise Regulations (note: the current Noise Regulations set outside sound level limits). This principle was the basis for the initial consultation paper released by the Department of Planning, Lands and Heritage in 2018 (**Attachment 1**). It was intended to provide protection for existing live music venues, from encroaching noise sensitive (residential) development. This option presents implementation and enforcement issues, a lack certainty for entertainment venues and provides no meaningful consideration to existing noise sensitive receivers (i.e. residents). For these reasons, the City does not support this option.

Option 3 – ‘special entertainment precincts’.

The draft position statement by WAPC does not (and indeed cannot) change the provisions currently contained within the Noise Regulations. Option 3 is a proposal to amend the Noise Regulations to complement the position statement. As detailed above, a local planning scheme would set a capped external amplified music level for an Entertainment Precinct. Entertainment Venues within the precinct would then be able to apply for an approval to exceed the existing assigned noise levels in the Noise Regulations.

These are proposed to be called ‘Venue Approvals’ and will be provided on an ‘opt-in’ basis only. It is intended that these approvals would be assessed and granted by the relevant local government CEO, and any approval would be subject to operational conditions and might also be time-limited. Venue approvals will generally be issued in accordance with the external amplified music level identified in the special control area. All venues which are not subject to these special approvals will continue to be assessed based on the existing assigned levels set out in the Regulations.

The implications to noise sensitive receivers includes:

- Existing noise sensitive receivers (i.e. residences) in a special entertainment precinct are unlikely to be appropriately acoustically treated to attenuate for the external amplified sound levels set within the planning scheme. These sound levels in the scheme will be higher than those in the Noise Regulations. Subsequently these residents may experience higher than desirable noise levels. The costs of retrofitting a building would likely be imposed on the owner;
- For all **new** residential development in a special entertainment precinct, protection from the external amplified music levels would be limited to indoor living spaces only. Residents would not be able to expect quiet noise levels with windows and doors open or in external areas of their properties i.e. balconies/yards;
- For developers, it will provide certainty when or if they are considering development in a special entertainment precinct as a new standard for the design and construction of a building will be clearly set out. This will be represented in the scheme and be directly to the external amplified music noise level in the local planning scheme; and
- The constructions costs of development in a special entertainment precinct are likely to increase due to the attenuation measures (such as ‘winter gardens’, glazing, acoustic baffling and slab thickness) necessary to meet the scheme requirements.

Outcomes for entertainment venues who obtain a Venue Approval under the Noise Regulations includes:

- There would be increased certainty for a business’s operations (as management and control measures will be set out in the venue approval). Should the entertainment venue be successful in obtaining a venue approval and maintain compliance with that approval, their operations would be exempt from meeting compliance with the assigned levels as stipulated in the Noise Regulations;
- Venue approvals will effectively be ‘capped’ at the level set in the scheme, to future proof the area for a given level of noise.

The paper states that the City of Perth is currently contemplating a precinct based approach for Northbridge, given the area has been subject of significant deliberation, modelling and research for almost two decades. The Northbridge precinct contains 58 identified entertainment venues and is generally regarded as Perth’s premier entertainment precinct. The City of Perth has assigned a noise level of up to 95 decibels (dB) for the core entertainment area and up to 79 decibels (dB) for the surrounding fringe area. The sound level of 95dB is typical of that experienced by residential properties close to a venue hosting a rock concert or the equivalent of a ‘factory floor’. In establishing these standards, the City of Perth has acknowledged that attenuating sound levels of this magnitude (particularly in the core area) would render most residential development unviable.

It is worth noting an external amplified sound level at 79dB (@63Hz) is the effective limit to protect health and amenity of the occupants of new residential developments in an entertainment precinct through building and construction standards without becoming financially or practically restrictive.

Any application of the proposed reforms discussed in either paper in other locations such as the City of Vincent, would require thorough technical examination of the issue as well properly quantifying the economic, financial and amenity impacts of such changes. In addition, it will be crucial to undertake meaningful communication and consultation with all affected parties.

Key Comments

The City would like to work with the Western Australian Planning Commission and the Department of Water and Environmental Regulations to address the following matters prior to progressing with any proposed reforms of the Noise Regulations:

	Matter	Recommendation
1.	The paper does not provide details on what a Venue Approval may look like with regard to conditions (such as will a venue approval be time limited? what type of conditions can be applied?).	The City would request the Department consult with all relevant stakeholder prior to a decision being made.
2.	There is limited information in the paper on whether an amendment to the Noise Regulation would enable a venue to emit higher sound levels (in the prescribed area) that those set in a local planning scheme.	The City considers that this should be clarified, to ensure applications for a Venue Approval are made in line with the set sound levels in the local planning scheme.
3.	Will applicants (of a Venue Approval in a special entertainment precinct) have the ability to make an appeal to a condition of approval, namely the capped sound level of the precinct?	To clarify, the City considers this would be counterproductive to the intent of an established special entertainment precinct.
4.	The consultation paper fails to address the conflict(s) that will exist where noise sensitive land uses are constructed or are already existing adjacent to a special control area. In the City of Vincent's case, the proposed special control area of the City of Perth (Northbridge) directly abuts residents of Vincent along Newcastle Street. It is not clear how this would be managed.	That the Department, in consultation with the WAPC investigate this conflict and provide a suitable solution prior to progressing with the position statement or amendments to the Noise Regulations. This includes providing guidance on investigation and enforcement with respect to cross boundary jurisdiction.
5.	In combination with the draft position statement of the WAPC, the implementation of Option 3 will likely see existing noise sensitive premises within a designated entertainment precinct experience higher than desirable noise levels. It is unlikely that these buildings have been adequately constructed or attenuated to accommodate for the higher sound levels of the precinct with any remediation costs to fall with the Owner.	That the City request the Department, in consultation with the WAPC further investigate this issue to provide guidance as to how this may adequately be addressed.
6.	The proposed reforms seemingly fail to address cumulative noise from multiple venues next to each other. Further the impact when new venues are established in an entertainment precinct.	That the Department investigate this issue and propose a resolution to adequately address and manage the impacts.
7.	Whilst there is a proposal to consider placing a Notification on Title for landowners in a special entertainment precinct (as a mitigation/control measure), it must be acknowledged that such notifications will only apply to new development and in any event, is often only effective on Owner-Occupier dwellings. In the City's experience, tenants are often not made aware of such issues prior to occupying a dwelling.	It is recommended that additional measures are also pursued to ensure existing and future residents are made aware of the noise, the potential scale of impact on amenity, what can be expected and any processes for recourse.
8.	With reference to the enforcement of a venue approval, that the penalties for non-compliance be proportionate to the offence, having regard to the flexibility already afforded to those Venues.	The City supports proportional enforcement options should a breach of a venue approval exist. For clarity, the City considers that a breach of a condition of venue approval should be consistent with a Tier 2 offence of the <i>Environmental Protection Act 1986</i> .

CONSULTATION/ADVERTISING:

The closing date for submissions on the WAPC draft position statement and the DWER consultation paper is 14 February 2020.

LEGAL/POLICY:

- *Environmental Protection (Noise) Regulations 1997*;
- Local Planning Scheme No. 2; and
- Local Planning Policy No. 7.5.21 – Sound Attenuation.

RISK MANAGEMENT IMPLICATIONS:

Low: It is low risk for the City to prepare a submission on the WAPC draft position statement for Special Entertainment Precincts and the DWER consultation paper.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's *Strategic Community Plan 2018-2028*:

Thriving Places

We encourage innovation in business, social enterprise and imaginative uses of space, both public and private.

Sensitive Design

Our planning framework supports quality design, sustainable urban built form and is responsive to our community and local context.

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

There are no financial implications relating to making a submission on the draft position statement or consultation paper. However, the establishment of an Entertainment Special Control Area/s within the City of Vincent would require specialist modelling and assessment of economic and acoustic impacts which will require adequate resourcing and consultancy budget.

COMMENTS:

The City supports the intent behind the proposed reforms to better protect the ongoing vitality of entertainment precincts within Western Australia. The changes have particular relevance to Vincent given the City's strong desire to have a vibrant 24-hour city, the prevalence of existing entertainment music venues in our Town Centres, along with the City's strategic desire to see an increase in residential accommodation within these areas. The Leederville Town Centre and the Jazz Precinct planned as part of the Arts Development Action Plan 2018-2020 are opportune areas where a SCA could be considered.

Whilst highly practical to do so in Northbridge, where there is a high concentration of entertainment venues in a single locality, the creation of a similar special entertainment precinct for Vincent is complicated by the dispersed nature of entertainment land uses. Designating one area of the CBD as an 'entertainment precinct' subject to relaxed noise regulations may have the unintended consequence of clustering entertainment land uses in a single area. This in turn could have undesired implications for land use diversity in Town Centres or the like. If the City were to pursue a special entertainment precinct for Vincent, its extent would need to be carefully considered not only to factor into account existing venues but to consider the desired future land use mix and character of Vincent.

The issue at hand is inherently complex and has the ability to impact both an important local industry and a significant number of residents. The City supports the intent of the draft position statement by WAPC on Special Entertainment Precincts but notes that any changes to the Noise Regulations needs to be balanced to ensure it is supported by extensive scientific research to ensure the wellbeing of affected residents is not unduly compromised.

It is recommended Council endorse the City's proposed submissions for the reasons detailed above and note the queries and concerns raised for which a response has been requested (**Attachment 4 and 5**).

Planning for entertainment noise in the Northbridge area – Public consultation paper

The City would like to thank the Department for the opportunity to provide comment on this important paper. The City, by virtue of its proximity to the Perth CBD, accommodates a variety of active and vibrant land uses and therefore, understands the perceived and actual conflict between entertainment venues and nearby residential housing. The City strongly supports investigation into this issue and looks forward to working with the Department to develop scientifically robust responses that appropriately balance the desire to support existing and future entertainment venues with the need to adequately regulate noise impacts on sensitive land uses.

1. Do you support the 'Agent of Change' principle in the Northbridge Entertainment Area? What are the advantages and disadvantages?

Generally yes, however, the establishment of that principle will only apply to new 'changes', be they new entertainment venues or new sensitive premises. The principle is appropriate moving forward but will not address the existing issues.

The head of power of the *Environmental Protection (Noise) Regulations 1997* is the *Environmental Protection Act 1986*, which contains the 'polluter pays principle', being those who generate pollution and waste should bear the cost of containment, avoidance or abatement. The obligations for noise emitters to contain and abate noise generated from their premises must therefore remain in some form and be carefully and effectively incorporated into any proposed amendments or modifications to the Noise Regulations.

2. Do you support the requirement for Notification on Titles within the Northbridge Entertainment Area, as a mechanism to communicate to prospective buyers / developers that the area will continue to be noisy?

Yes, however it must be acknowledged that such notifications will only apply to new development and in any event, is often only effective on Owner-Occupier dwellings as, in the City's experience, tenants are often not made aware of such issues prior to occupying a dwelling. That being the case, it is recommended that additional measures are also pursued to ensure existing and future residents are made aware of the noise, the potential scale of impact on amenity, what can be expected and any processes for recourse.

3. Do you think 'agent of change' planning principles should be investigated for broader adoption? What are some of the benefits and challenges of the broader adoption of agent of change?

It is noted that the principle already somewhat exists within various planning frameworks and processes, including in relation to road and rail noise (State Planning Policy 5.4).

A benefit of the agent of change principle is that mixed use areas may remain in place providing diversity and richness in town centres, rather than such uses being removed as they are not compatible, from a noise perspective, with residential dwellings.

4. *How do you see the proposed reforms will impact on the building and construction industry, particularly with regard to compliance issues?*

It will be necessary for planning proposals to demonstrate that effective sound attenuation can be achieved, prior to such a proposal being determined. As part of this, developers should be required to use actual sound levels for the purposes of calculation and reporting, with standardised theoretical sound level limits not being used unless it is absolutely necessary due to subject noise occurring so infrequently, that performing measurements on-site is impractical.

Irrespective of the specific calculation and reporting methodology, the exercise will add an 'up-front' cost to a proposal, with no guarantee of the proposal being supported or ultimately approved. This may either deter development or result in a greater cost in providing housing stock.

If, as the paper suggest, noise complaints from residents of new-noise sensitive developments will be investigated from both the prescribed noise standards and constructions and development standards, then rigorous controls and check points will be required to ensure that inspection and reporting occurs throughout the development and construction phase. There is a limit to the amount of attenuation that can be provided by a building façade, particularly in the low frequency sound range and this must have special consideration in the design and development phase.

5. *How do you see the proposed reforms will impact on the live music and entertainment industries, particularly with regard to compliance issues?*

Broadly, the proposed reforms would be a positive outcome for live music venues and the entertainment industry, although it must be acknowledged that any softening of the standards to benefit that industry will have a commensurate impact on the residents in and around the precinct.

From a technical perspective, in the event of a noise complaint is received from within the SCA, it is likely that a venue (or venues) will find it difficult to achieve compliance with 'indoor sound levels', considering the sound attenuation properties of individual buildings will vary greatly, in addition to variations from the place of measurement within the dwelling. Extensive research and expert input will be required to establish the vulnerabilities and uncertainties around the application of indoor sound levels from a compliance aspect, so as to ensure clarity for all stakeholders.

6. *Do you see any advantages or disadvantages in only applying protections for noise sensitive premises to indoor areas?*

The advantage for the venue operators would be that there would be less of a regulatory burden to constrain their operations, with the related disadvantage being for affected residents whereby there will be no controls that would apply to their outdoor areas or their indoor areas when doors/windows are open. Extensive research and expert input will be required to determine the likely extent of any health impacts that would result from the proposed changes.

7. Do you think the overall approach to amending the Noise Regulations is reasonable to balance the needs of residents and the entertainment industry in Northbridge?

It is accepted that to have a vibrant precinct that accommodates a mix of entertainment venues and residential housing (among other things), that there must be some prioritisation of the somewhat incompatible uses. If, as the paper suggests, the balance should be shifted in favour of the entertainment industry, the proposed changes to the Noise Regulations is a reasonable means of achieving that outcome, although, it is strongly recommended that any changes to the regulatory framework should be (i) supported by extensive scientific research to ensure the wellbeing of affected residents is not unduly compromised; and (ii) clearly communicated to existing residents in and around the precinct, who will effectively have to endure greater noise impacts. To this end, the City suggests if it has not done so already, that the Department should be undertaking personalised consultation with all residential occupants and owners within and around the precinct, to ensure an adequate level of community involvement and engagement on this important issue.

8. Are there other approaches to regulation of noise in the Northbridge entertainment precinct which should be considered?

It would be open to simply apply the rules as they currently exist as the existing Noise Regulations allow for the measurement of sound levels to occur indoors.

9. Do you support the application of new indoor levels on all nights of the week? Is there a case for setting different levels on different days of the week or times of the day in Northbridge?

The City is not opposed to the concept, although would require further information and detail in order to provide a more definitive response. It is acknowledged that the existing Noise Regulations suggest that the application of variable sound level limits (assigned levels) on different days and at different times of day is favourable and appropriate.

As previously stated, any proposed amendments to the current application of assigned levels would require thorough scientific research to ensure any potential health implications on reducing noise protections at night are properly understood.

10. How can uncertainties associated with indoor noise measurement and acoustic assessment be addressed?

The issues and concerns raised in Section 6.3.2 of the paper are all valid and must be appropriately addressed before committing to detailed changes to the existing regulatory framework. It is anticipated that such work would be informed by input from acoustic and environmental health experts.

11. Are there alternatives to measurement of noise indoors which could provide an equivalent level of protection for indoor areas?

Not that the City is aware of.

12. Are there any additional measures available to venues to ameliorate/attenuate environmental noise received at noise-sensitive premises?

The City would defer to independent acoustic experts on this matter.

13. What are the impacts on live music venues, businesses and home owners associated with the outlined noise management options?

The management measures will involve a financial cost to venues and/or restrict the manner in which they can operate. The resultant impact on residents would likely be reduced noise impacts. It should be noted however, that notification and complaint management is not considered genuine management measures, as they do not have any material impact on the actual impacts of noise.

14. What are the limitations for venues or noise-sensitive premises in relation to attenuating music noise?

As per the answer to Question 13.

15. Can you foresee any issues with the management of noise complaints or enforcement of assigned levels as a result of the proposed reforms?

Noise from entertainment venues is a major issue for many local governments, particularly those undergoing densification around key commercial nodes. If intention of the initiative is to support existing and future entertainment venues by reducing the regulatory burden as to noise, it must be accepted that there will be an associated impact on the residents in and around the precinct. Any changes made to the regulatory framework need to be clearly communicated to affected landowners so as to avoid complaints regarding an increase in noise, that may otherwise be permitted.

16. What other mechanism are available to help enhance certainty for entertainment venues in relation to noise levels?

It is noted that the current framework already provides certainty for entertainment venues.

17. Are there approaches adopted in other jurisdictions which could be contemplated here? If so, what?

The City of Vincent has *Local Planning Policy 7.5.21 - Sound Attenuation*, which provides guidance on how developers can maximise the enjoyment and liveability of mixed land use living by mitigating the effects of ambient/environmental noise through appropriate consideration and design. The Policy effectively acts as a project viability screening tool by establishing the potential costs involved with containing sound levels from the development when in operation. If the changes contained with the discussion paper are progressed, it is considered appropriate to develop accompanying policy guidance to ensure a consistent process and resultant outcomes.

Other comments:

- The paper makes reference to Creative WA and the protection of live music venues, however the application of a Special Control Area (SCA) across the Northbridge Precinct is of a broad scale without any precise detail on the location, scale and density of (i) live music venues and (ii) residential dwellings, within the area. It is considered that detailed mapping would assist in considering this issue and quantifying the potential impacts.

- The City of Vincent directly abuts the northern boundary of the proposed Northbridge Entertainment Area, with that portion of the district zoned to facilitate a mix of uses including medium and high density residential housing. It would appear that it is intended for the existing Noise Regulations to apply to areas outside the entertainment precinct, which would effectively mean that entertainment venues would still have an obligation to comply with outdoor noise levels, as received from dwellings within the City of Vincent. It would be appreciated if the Department could clarify this matter and provide the City the opportunity to have further input on this particular issue, prior to any formal decisions being progressed.
- The paper indicates the agent of change principle will not be applied retrospectively and therefore, existing and future entertainment venues will need to comply with (amended) Noise Regulations for noise received by sensitive uses within 'non-attenuated' buildings. Further investigation is required on this issue, particularly given the number of existing entertainment venues and residential dwellings within the subject area.
- It appears that the amendment to the Noise Regulations will only apply to the Northbridge Entertainment Area rather than applying to any Entertainment Area identified as a Special Control Area in a Local Planning Scheme. It is recommended that the latter be pursued as it would allow other entertainment areas to have similar controls if established in the Local Planning Scheme.
- As is common with entertainment venues such as nightclubs, low frequency sound can dominate the spectrum of sound emitted and will likely remain a key source of complaints. Generally, building facade alterations for sound attenuation purposes are often ineffective for reducing the impact of low frequency sound and therefore, extensive research and expert input will be required to establish the noise mitigation standards that will apply as part of any changes to the regulatory framework.
- A clear process will need to be developed to deal with situations where post-construction testing determines that attenuation provided is not adequate to achieve compliance for internal noise levels. That process would need to clearly establish the necessary actions and the roles and responsibilities for the various stakeholders.
- Ultimately, the issue at hand is inherently complex and has the ability to impact both an important local industry and a significant number of residents. For that reason, the City strongly supports thorough technical examination of the scientific elements of the issue as well as hypothetical application of any revised standards, so as to properly quantify both the financial and amenity impacts of such changes. In addition, it is considered crucial to undertake meaningful communication and consultation with the affected parties. It would be appreciated if the Department could outline the manner in which it has consulted the affected residential owners and occupiers within and surrounding the precinct.



Department of Planning,
Lands and Heritage



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Draft Position Statement: Special Entertainment Precincts

November 2019

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November 2019

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1. Purpose

To provide guidance on the designation of special entertainment precincts. A special entertainment precinct will comprise a diverse mix of land uses, including entertainment venues, which contribute to an active night-time economy.

2. Special entertainment precincts in Western Australia

Western Australia is home to a number of vibrant entertainment districts, which offer a diverse mix of live music venues, nightclubs, bars, cafes and restaurants and make a significant contribution to the State's culture and economy. However, with an increasing trend towards mixed-use, high-density living, the convergence of land uses can cause conflict, particularly when noise-sensitive development is permitted close to existing noise emitters, such as entertainment venues. Managing and planning for entertainment in mixed-use areas is a complex challenge that requires careful consideration of the needs of both entertainment venue operators and residents.

3. Application of this policy

This position statement applies to the establishment of special entertainment precincts in local planning schemes, improvement schemes or redevelopment schemes. It is expected that responsible authorities will undertake a scheme amendment to introduce a special control area (SCA) when a special entertainment precinct is to be established. The scheme amendment will include provisions that apply to both entertainment venues and noise-sensitive developments within the boundary defined by the SCA.

3.1 Other relevant regulation and policies

Other regulations and policies overlap with the planning system, and some proposals may require approvals outside of the planning system.

The primary instruments for noise regulation in the State are the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997 (Noise Regulations)*.

The Noise Regulations set legally enforceable assigned (or allowable) levels for noise emitted from a premises or venue at the point of a sensitive receiver. The assigned levels are outdoor levels and vary according to the type of premises receiving the noise and

the time of day the noise is received. Higher levels of protection are afforded to the most sensitive premises, classed as 'noise-sensitive'. Premises classified as noise-sensitive are listed in Schedule 1 Part C of the Noise Regulations and include residential accommodation, small hospitals, schools, aged care facilities and short-term accommodation.

This position statement does not override the requirements of the Noise Regulations.

To complement the planning components outlined in this position statement, the Department of Water and Environmental Regulation are concurrently considering proposed amendments to the Noise Regulations. One of the options being considered includes the introduction of provisions for a venue approval for the day-to-day operations of entertainment venues located within a recognised SCA. This will allow venues to exceed the assigned noise levels, subject to conditions. Under this approach, venue compliance in relation to the Noise Regulations would be assessed against the individual conditions of the venue approval. Venue approvals are proposed to operate on an opt-in basis.

4 Policy objectives

The objectives of this position statement are to:

- provide clear and consistent development guidance for designated special entertainment precincts
- establish a framework that reduces potential land use conflicts between noise-sensitive receivers and entertainment venues through the application of relevant planning considerations
- provide an increased level of assurance for entertainment venues by establishing a framework to achieve greater operational certainty.

5 Policy measures

The following measures should be implemented in local planning schemes, improvement schemes or redevelopment schemes to establish special entertainment precincts.

Model SCA provisions (Appendix 1) have been prepared as a guide for local governments wishing to establish a special entertainment precinct. Local planning policies may also be required to manage the impacts of entertainment noise in these areas.

5.1 Special entertainment precincts

The establishment of a special entertainment precinct can be considered where a diverse mix of existing or planned land uses, including entertainment venues, contribute to an active night-time economy. Establishment may be appropriate where it can be demonstrated that the precinct has strategic importance to the area in which it operates, particularly with regard to its tourism, cultural and commercial value.

A special entertainment precinct is established through the designation of a SCA in a local planning scheme, improvement scheme or redevelopment scheme. The primary function of the SCA is to manage existing and/or potential

land use conflicts associated with entertainment venues and noise-sensitive uses.

The relevant local government or responsible authority is to identify the case for a special entertainment precinct SCA and define its boundary. Examples of materials which may be provided to support the establishment of the SCA include:

- a robust problem definition statement, including current noise levels and any entertainment noise-related complaints
- evidence of consultation with the local community and adjoining/impacted local governments
- demonstration of a significant night-time economy supported by an economic assessment
- evidence of an established strategic vision for the precinct, including the existing and/or intended land use mix and the potential for future entertainment venue development
- specific performance criteria, development requirements and/or guidance to be applied to development through a local planning scheme, redevelopment scheme or local planning policy.

The establishment of the SCA requires early consultation with the Western Australian Planning Commission and the Department of Water and Environmental

Regulation (or the Government agency responsible for the administration of the Noise Regulations) ahead of the scheme amendment process. The SCA will identify the precinct boundary and contain provisions to guide development.

The boundary of the special entertainment precinct should give consideration to the location of existing entertainment venues, especially where the boundary abuts another local government. A local planning policy for noise attenuation in surrounding areas may be appropriate to reduce the impact on noise-sensitive land uses outside the SCA.

Following the possible introduction of new provisions in the Noise Regulations, entertainment venues located within a designated SCA/special entertainment precinct recognised by the Noise Regulations will be eligible to apply for a venue approval to exceed the assigned levels for day to day operations, subject to conditions.

The designation of special entertainment precincts in local planning schemes, improvement schemes or redevelopment schemes will facilitate a balanced approach to protecting the viability of the entertainment industry and supporting vibrant urban communities.

5.2 External amplified music noise level

Local governments should have regard to the strategic role and function of the precinct and future direction of surrounding land uses to determine a desired level of entertainment noise for the special entertainment precinct. The desired external amplified music noise level should be incorporated into the SCA to inform construction and design standards for new noise-sensitive development and new entertainment venue proposals in the precinct. The external amplified music noise level will provide the community with an indication of the noise they could expect to receive within the precinct area. The external amplified music noise level should be articulated in decibels, and expressed as L_{Aeq} in the 63 Hz octave band and 125 Hz octave band.

The external amplified music noise level in the SCA serves a planning purpose and does not regulate the level of noise emitted by entertainment venues or override the requirements of the Noise Regulations.

5.3 Venue approvals

Under the possible changes to the Noise Regulations currently being considered by the Department of Water and Environmental Regulation, venues within a special entertainment precinct may apply for a venue approval to exceed the

assigned levels for day-to-day operations, subject to conditions. The venue approval will be issued by the responsible local government in accordance with the Noise Regulations. The venue approval will specify a maximum allowable noise level at the venue boundary, or a defined point, for compliance purposes and may have other conditions attached. The maximum allowable venue level will be set with regard to the external amplified music noise level in the SCA, consistent with the attenuation requirements adopted for the precinct.

Venues operating without a venue approval within the special entertainment precinct will continue to be subject to the assigned levels set out in the Noise Regulations.

5.4 Construction and design standards

The local planning scheme, improvement scheme or redevelopment scheme must outline the level of attenuation or 'building transmission loss' that needs to be achieved for new noise-sensitive development. New entertainment venues may also require construction and design standards to demonstrate compliance with the external amplified music noise level. Precincts with higher external amplified music noise levels will require greater levels of attenuation/transmission loss to ensure acceptable indoor levels can be met.

Enhanced noise attenuation for new development will ensure areas designated as special entertainment precincts become better protected from the impacts of amplified music noise over time.

The construction and design standards should be informed by the transmission loss design report and/or acoustic report (refer to section 5.5) and any applicable local planning policy (if relevant).

Where approval is contemplated, a process should be established that provides for post-construction certification of measures incorporated to achieve building attenuation/transmission loss.

Noise attenuation requirements should not be applied retrospectively to existing development.

5.5 Noise assessments for new development

Within a special entertainment precinct, applications for new noise-sensitive development must be accompanied by a transmission loss design report setting out measures to be adopted in the construction and design of the development to achieve indoor levels set out in the SCA.

Applications for development of new entertainment venues will be required to submit an acoustic report demonstrating

how the venue will achieve the external amplified music noise level set out in the SCA.

Assessments must be undertaken by a qualified acoustic consultant and should incorporate the measures required to meet the SCA objectives. The acoustic consultant should remain engaged through the design, construction and practical completion stages of the project. A checklist detailing acoustic solutions which can be signed off post-construction is to be included.

5.6 Notification on titles

In a special entertainment precinct, residents should expect ambient noise levels to be relatively higher both inside and outside residences, due to the proximity of entertainment venues.

A condition of approval for noise-sensitive land uses is to have a notification placed on the title. This will inform prospective purchasers of the existence of entertainment noise in the area.

Definitions

Entertainment venue: a hotel, tavern, nightclub, small bar, function centre, entertainment complex, theatre, or other such entertainment premises that plays amplified music, either live or pre-recorded, on a regular or periodic basis. This includes both indoor and/or outdoor areas where applicable.

External amplified music noise level: the maximum, nominal noise level directly attributable to amplified music emitted by an entertainment venue or multiple entertainment venues.

Noise-sensitive premises: has the same meaning as defined in the Environmental Protection (Noise) Regulations 1997, however excludes the following: churches, education establishments and day-time childcare facilities. This definition includes, but is not limited to, the following land use terms as defined in Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 1, clause 38: bed and breakfast, caravan park, caretakers dwelling, holiday accommodation, holiday house, hospital, hotel, motel, serviced apartment, tourist development, and workforce accommodation. May also include rehabilitation centres and residential aged care facilities.

Special entertainment precinct:

a precinct containing a number of entertainment venues and includes a diverse mix of land uses which contribute to an active night-time economy as referenced in the Environmental Protection (Noise) Regulations 1997.

Appendix 1: Model Text Provisions for Special Entertainment Precincts

Part X – Special control areas

XX. Special control areas

- (1) Special control areas are marked on the Scheme Map according to the legend on the Scheme Map.
- (2) The purpose, objectives and additional provisions that apply to each special control area are set out in the section below.

X.1 *<Name of precinct>* Special Entertainment Precinct – Special Control Area

The following provisions apply to the land marked *<Insert name of precinct>* Special Entertainment Precinct Special Control Area on the Scheme Map.

[Additional text if Core and Frame Entertainment Areas are proposed]

The special control area comprises a Core Entertainment Area and a Frame Entertainment Area.

X.2 Purpose

The purpose of the special control area is to establish a framework that reduces potential land use conflicts between noise-sensitive premises and entertainment venues through the application of relevant planning considerations.

NOTE – the special control area does not regulate the level of noise emitted by entertainment venues or override the requirements of the Environmental Protection (Noise) Regulations 1997.

X.3 Objectives

- (a) Ensure the *<Insert name of precinct>* Special Entertainment Precinct is a primary entertainment area, evolves as a vibrant cultural and arts scene, with a variety and a high concentration of entertainment venues.
- (b) Reduce potential land use conflicts between noise-sensitive uses and entertainment venues by ensuring the design and construction of buildings incorporate appropriate noise attenuation measures.

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- (c) Acknowledge and support a higher concentration of entertainment venues by ensuring development incorporates noise attenuation measures which respond to external amplified music noise levels which may be permitted under the Environmental Protection (Noise) Regulations 1997, including levels that may not comply with the standard prescribed under Regulation 7.

OR

- (c) [Alternative text if Core and Frame Entertainment Areas are proposed]

Acknowledge and support a higher concentration of entertainment venues in the Core Entertainment Area by ensuring development incorporates noise attenuation measures which respond to external amplified music noise levels which may be permitted under the Environmental Protection (Noise) Regulations 1997, including levels that may not comply with the standard prescribed under Regulation 7; and

- (d) [Alternative text if Core and Frame Entertainment Areas are proposed]

To provide a Frame Entertainment Area, which acts as a transitional area between the Core Entertainment Area and the area outside the special control area, by ensuring development incorporates noise attenuation measures which respond to external amplified music noise levels which may be permitted under the Environmental Protection (Noise) Regulations 1997, including levels that may not comply with the standard prescribed under Regulation 7.

X.4 General Provisions

X.4.1 Noise Attenuation Standards

- (a) Within the *<Insert name of precinct>* Special Entertainment Precinct, the noise attenuation standards for entertainment venues and noise-sensitive premises shall be based on a nominal external amplified music noise level of L_{Leq} xx dB in the 63 Hz octave band and L_{Leq} xx dB in the 125 Hz octave band.

OR

- (a) [Alternative text if Core and Frame Entertainment Areas are proposed]

Within the Core Entertainment Area, the noise attenuation standards for entertainment venues and noise sensitive premises shall be based on a nominal external amplified music noise level of L_{Leq} xx dB in the 63 Hz octave band and L_{Leq} xx dB in the 125 Hz octave band.

- (b) [Alternative text if Core and Frame Entertainment Areas are proposed]
Within the Frame Entertainment Area, the noise attenuation standards for:
- (i) entertainment venues shall be based on a nominal external amplified music noise level of L_{Leq} xx dB in the 63 Hz octave band and L_{Leq} xx dB in the 125 Hz octave band.
 - (ii) noise-sensitive premises shall be determined as part of a Transmission Loss Assessment, prepared by a qualified acoustic consultant, which takes into consideration that an external amplified music noise level of up to L_{Leq} xx dB in the 63 Hz octave band and L_{Leq} xx dB in the 125 Hz octave band could be received from the adjoining Core Entertainment Area, in addition to any external amplified music noise levels assigned for entertainment venues situated within the special control area.
- (b) Where an application for development approval relates to a noise-sensitive premises and/or an entertainment venue, the noise attenuation standards outlined in clauses X.5 and X.6 [update as necessary] respectively shall be complied with.
- (c) Where an application for development approval relates to a mixed-use development which incorporates noise-sensitive premises and/or entertainment venues, the noise attenuation standards for these uses outlined in clauses X.5 and X.6 [update as necessary] respectively shall be complied with.
- (d) Noise attenuation measures must be carefully integrated into the design of the development and not significantly detrimentally impact upon:
- (i) the buildings aesthetics, environmental sustainability, and cultural heritage significance where applicable;
 - (ii) the internal amenity for building occupants; and
 - (iii) the public realm.

X.4.2 Requirement for Development Approval

- (a) In accordance with clause 61(3) of the Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2, an application for development approval within this special control area shall be required for:
- (i) any works associated with a noise-sensitive premises, entertainment venue or mixed-use development (which contains a noise-sensitive premises and/or entertainment venue) excluding works under clause 61(1) (d) of the Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2; and
 - (ii) any change of use involving a works component (as defined under Part 1 of the Deemed Provisions) to a noise-sensitive premises or an entertainment venue.

X.5 Noise-Sensitive Premises

- (a) Noise-sensitive premises located in the special entertainment precinct shall be located, designed and constructed so that the Transmission Loss is a minimum of L_{Leq} xx dB in the 63 Hz octave band and L_{Leq} xx dB in the 125 Hz octave band.

OR

- (a) [Alternative text if Core and Frame Entertainment Areas are proposed]
Noise-sensitive premises within the Core Entertainment Area shall be located, designed and constructed so that the Transmission Loss is a minimum of L_{Leq} xx dB in the 63 Hz octave band and L_{Leq} xx dB in the 125 Hz octave band.
- (b) [Alternative text if Core and Frame Entertainment Areas are proposed]
Noise-sensitive premises within the Frame Entertainment Area shall be located, designed and constructed so that the Transmission Loss is a minimum of L_{Leq} xx dB in the 63 Hz octave band and L_{Leq} xx dB in the 125 Hz octave band, plus any additional Transmission Loss required to achieve a theoretical internal design level of L_{Leq} 47 dB in the 63 Hz octave band and L_{Leq} 41 dB in the 125 Hz octave band.
- (b) Where an application for development approval relates to:
- (i) an extension or addition of an existing noise-sensitive premises, and/or
 - (ii) proposed works or changes in use to a noise-sensitive premises outlined in clause x.4.2 (a)
- the applicable noise attenuation standards outlined in clause x.4.1 shall only apply to any new habitable room(s).
- (c) Transmission Loss Design Report
- (i) An application for development approval relating to a noise-sensitive premises shall include a Transmission Loss Design Report, prepared by a qualified acoustic consultant in a manner and form approved by the local government. The Transmission Loss Design Report shall include the details of noise attenuation measures that will be included in the proposed development's design and construction to achieve the applicable [Core and Frame] Transmission Loss levels prescribed by subclause[s] x.5 (a) [and (b)] to the satisfaction of the local government.
 - (ii) Noise-sensitive premises shall be designed and constructed in accordance with the attenuation measures detailed in the approved Transmission Loss Design Report, in addition to any other attenuation measures required by the city.

- (d) Noise-sensitive premises shall not be approved where the local government is not satisfied that the development can be acoustically attenuated to meet the applicable Transmission Loss levels.
- (e) The local government shall, as a condition of development approval for noise-sensitive premises, require a notification pursuant to section 70A of the *Transfer of Land Act 1893* to inform prospective owners of the likelihood of elevated noise levels from entertainment venues.
- (f) Prior to the commencement of development, a qualified acoustic consultant shall review the construction drawings and certify to the satisfaction of the local government these documents incorporate all the necessary noise attenuation elements described in the approved Transmission Loss Design Report.
- (g) After practical completion stage and prior to occupation of the development, a qualified acoustic consultant shall certify to the satisfaction of the local government that all the recommendations of the approved Transmission Loss Design Report have been implemented.

X.6 Entertainment Venues

- (a) Appropriate noise mitigation shall primarily be achieved through design and construction methods rather than reliance upon on-going operational management measures.
- (b) Entertainment venues located in the special entertainment precinct shall be designed and constructed to incorporate noise attenuation measures to ensure that a level of L_{Leq} xx dB in the 63 Hz octave band and L_{Leq} xx dB in the 125 Hz octave band is not exceeded at 1 metre from the entertainment venue boundary.

OR

- (b) [Alternative text if Core and Frame Entertainment Areas are proposed]
Entertainment venues located in the Core Entertainment Area shall be designed and constructed to incorporate noise attenuation measures to ensure that a level of L_{Leq} xx dB in the 63 Hz octave band and L_{Leq} xx dB in the 125 Hz octave band is not exceeded at 1 metre from the entertainment venue boundary.
- (c) [Alternative text if Core and Frame Entertainment Areas are proposed]
Entertainment venues located in the Frame Entertainment Area shall be designed and constructed to incorporate noise attenuation measures to ensure that a level of L_{Leq} xx dB in the 63 Hz octave band and L_{Leq} xx dB in the 125 Hz octave band is not exceeded at 1 metre from the entertainment venue boundary.

- (c) Where an application for development approval relates to:
- an extension or addition of an existing entertainment venue; and/or
 - proposed works or changes in use outlined in clause x.4.2 (a) above
- the applicable noise attenuation standards outlined in clause x.4.1 above shall only apply to the new or substantially modified component of an entertainment venue.
- (d) Acoustic Report
- (i) An application for development approval relating to an entertainment venue shall include an Acoustic Report, prepared by a qualified acoustic consultant, in a manner and form approved by the local government, detailing existing and proposed attenuation and mitigation measures to meet the applicable [Core and Frame] noise levels prescribed by subclause[s] x.6 (b) [and (c)].
- (ii) Entertainment venues that have potential noise impacts, as identified in the Acoustic Report shall incorporate appropriate design, construction methods, materials and devices to mitigate noise emissions to the satisfaction of the local government.
- (e) Prior to the commencement of development, a qualified acoustic consultant shall review the construction drawings and certify to the satisfaction of the local government that these documents incorporate all the necessary noise attenuation elements described in the approved Acoustic Report.
- (f) After practical completion stage and prior to occupation of the development, a qualified acoustic consultant shall certify to the satisfaction of the local government that all recommendations of the approved Acoustic Report have been implemented.

X.7 Definitions

[Additional text if Core and Frame Entertainment Areas are proposed]

Core Entertainment Area means the area designated as such in Map xx.

Entertainment venue means a hotel, tavern, nightclub, small bar, function centre, entertainment complex, theatre, or other such entertainment premises that plays amplified music, either live or pre-recorded, on a regular or periodic basis. This includes both indoor and/or outdoor areas where applicable.

Entertainment venue boundary means the perimeter walls or outdoor containment structures, floors, ceiling or roof, that form the horizontal and vertical extent of an entertainment venue, unless the entertainment venue is the sole land use on a lot, in which case its horizontal extent shall be the

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boundaries of the lot upon which it is located. Where an entertainment venue has no physically defined vertical extent, such as in the case of an outdoor area or roof top venue, its vertical extent shall be 4 metres above the ground or floor level of the venue.

External amplified music noise level means the maximum, nominal noise level directly attributable to amplified music emitted by an entertainment venue or multiple entertainment venues.

[Additional text if Core and Frame Entertainment Areas are proposed]

Frame Entertainment Area means the area designated as such in Map xx.

Noise-sensitive premises for the purposes of this special control area has the same meaning as defined in Environmental Protection (Noise) Regulations 1997, however excludes the following: place of worship, education establishments and day-time childcare facilities. This definition includes, but is not limited to, the following land use terms as defined in Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 1, clause 38: bed and breakfast, caravan park, caretakers dwelling, holiday accommodation, holiday house, hospital, hotel, motel, serviced apartment, tourist development, and workforce accommodation. It may also include rehabilitation centres and residential aged care facilities.

Receiver facade means the roof and all external walls of premises situated within the special entertainment precinct.

Special entertainment precinct means a precinct containing a number of entertainment venues and includes a diverse mix of land uses which contribute to an active night-time economy as referenced in the Environmental Protection (Noise) Regulations 1997.

Transmission loss means the noise level reduction provided by a receiver façade that is required to meet acceptable internal noise levels.



Government of **Western Australia**
Department of **Water and Environmental Regulation**



Managing amplified music noise in entertainment precincts

Consultation paper

November 2019

Managing amplified music noise in entertainment precincts

Consultation paper

Department of Water and Environmental Regulation
November 2019

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Managing amplified music noise in entertainment precincts

Consultation on managing amplified music noise in entertainment precincts in Western Australia

The Department of Water and Environmental Regulation (the department) is working with the Department of Planning, Lands and Heritage to engage the community and key stakeholders in discussions about how to best manage noise from amplified music in entertainment precincts. The State Government's reforms are aimed at balancing the competing needs of entertainment venues, other businesses and residents in vibrant entertainment precincts such as Northbridge.

This consultation paper seeks feedback on approaches to plan and manage areas with an active night-time economy including entertainment venues that play amplified music.

The paper sets out a number of reform options, including the establishment of special entertainment precincts in local planning schemes together with venue approvals to provide an option for entertainment venues to exceed Western Australia's assigned (prescribed) noise levels. The latter will require regulatory amendments to the Environmental Protection (Noise) Regulations 1997 (Noise Regulations).

The paper takes into account feedback received from stakeholders on a previous discussion paper prepared jointly by the department and the Department of Planning, Lands and Heritage and published by the Western Australian Planning Commission (WAPC) in 2018: *Planning for entertainment noise in the Northbridge area*.

In parallel with this consultation, the City of Perth is contemplating a planning scheme amendment to its *City Planning Scheme No.2*. Consultation on the scheme amendment, once initiated, will allow for community input on the City of Perth's proposal to establish Northbridge as the state's first 'special entertainment precinct'.

Stakeholder feedback on the planning elements associated with the Northbridge special entertainment precinct, including the boundary, building construction standards and external amplified noise levels, should be submitted to the City of Perth through their consultation process. Information and updates on the City of Perth's scheme amendment will be available at: <https://www.perth.wa.gov.au>

Complementary to the above, the WAPC has developed a draft *Position statement: special entertainment precincts* (position statement) to provide guidance to local governments in the establishment of special entertainment precincts in local planning schemes, improvement schemes or redevelopment schemes. The draft Position Statement includes general principles and minimum requirements for scheme provisions, including building attenuation measures and notifications on title.

The WAPC is seeking public comment on the draft position statement in conjunction with this consultation paper. Submissions received as part of this consultation paper will also inform the finalisation of the broader state-wide planning framework proposed in the draft position statement.



Figure 1 Special entertainment precincts consultation package

Stakeholder consultation promotes transparency, improves design and ensures risks are identified and unanticipated outcomes are avoided. It also allows innovative ideas to be proposed for consideration. You can provide feedback via an online survey or by a written submission to the department.

The consultation provides an opportunity for businesses, residents and visitors of entertainment precincts to express their views about the reform options and provide estimates of how the implementation measures may impact their businesses, personal finances or entertainment experience.

By making a submission you are consenting to the submission being treated as a public document. Your name will be published; however, your contact address will be withheld for privacy. If you do not consent to your submission being treated as a public document, you should either mark it as confidential or identify the parts that you consider confidential, and include an explanation.

Following public consultation on the reforms outlined in this paper, submissions will be analysed and the Department will make recommendations for amendments to the Noise Regulations to the Minister for Environment.

Submissions, including online survey responses, will be collated and summarised in a report following the close of the consultation period.

The department may request that a non-confidential summary of the material is also provided. It is important to note that, even if your submission is treated as confidential, it may still be disclosed in accordance with the requirements of the *Freedom of Information Act 1992*, or any other applicable law.

Managing amplified music noise in entertainment precincts

The department reserves the right to remove or delete any content that could be regarded as racially vilifying, derogatory or defamatory to an individual or organisation.

How to make a submission

The consultation period will be 12 weeks. Written submissions must be received by 5pm (WST) on 14 February 2020. No late submissions will be considered.

Written submissions can be lodged by email (preferred) at:

entertainment-noise@dwer.wa.gov.au

Hard copies can be mailed to:

Entertainment Noise

Department of Water and Environmental Regulation

Locked Bag 10, Joondalup DC, WA 6919

Feedback from this consultation process will inform the development of legislative and planning approaches to entertainment noise in Western Australia.

For further information please email entertainment-noise@dwer.wa.gov.au

Note: stakeholders with feedback on the Northbridge-specific planning elements of special entertainment precincts should make a submission through the forthcoming City of Perth consultation process.

1 Background to this reform

The State Government is committed to supporting the arts sector and is exploring reforms to encourage development of live music and entertainment venues and cultural industries. This support is articulated in *Creative WA: Supporting the arts and creative industries* (WA Labor 2016).

Creative industries, particularly the music industry, contribute significantly to the Western Australian night-time economy. Entertainment venues such as hotels, taverns and nightclubs represent 16 per cent of all businesses in Western Australia and generate significant revenue in some precincts, with more than \$1 billion in sales in the City of Perth (Ortus 2017).

As well as contributing to economic prosperity, live music venues, nightclubs, bars, cafes and restaurants also contribute to a city's culture, with entertainment venues and event spaces fostering the development of the arts and creative industries, broader tourism and hospitality industries, and opportunities for complementary business activities (WAPC 2018).

While the benefits of a vibrant arts and cultural sector are clear, mixed use entertainment precincts present challenges for planning and, in particular, the management of environmental noise. Inner city areas with a higher density of entertainment venues are experiencing significant infill development with an increasing number of mixed-use and high density residential developments.

This mix of land uses can cause conflict when noise-sensitive development is permitted close to established noise emitters, particularly where the noise is amplified music noise which has dominant or 'intrusive' characteristics. This land use conflict can also restrict the development of new entertainment venues close to residential development.

Although residents choosing to live in vibrant urban centres may be willing to accept higher noise levels at certain times, residents have a right to a reasonable level of amenity, including environmental noise levels that do not unduly interfere with their enjoyment of their premises or adversely impact health. Consideration of the needs of both residents and entertainment venues is required in order to address the planning needs of entertainment precincts.

Planning considerations for entertainment precincts

Local government has an important role in ensuring appropriate planning controls for land use and development through the preparation and administration of local planning schemes and strategies. Local planning schemes designate appropriate land use, residential density and development standards. Local government can also designate special control areas to control a particular type or characteristic of development associated with a precinct.

The WAPC defines a 'special entertainment precinct' as an area with a diverse mix of existing or planned land uses, which include entertainment venues that contribute to

an active night-time economy. A special entertainment precinct will include a number of entertainment venues clustered within a defined location and can include a mix of small bars and live music venues, restaurants, cafes, nightclubs, and pubs.

The draft WAPC position statement on special entertainment precincts, released on 7 November 2019, states that these precincts may be established by a local government through the adoption of a special control area in a local planning scheme.

The function of a special control area that establishes a special entertainment precinct is to manage existing or future conflicts associated with amplified music noise from entertainment venues. Special control area provisions will require higher construction standards for noise-sensitive (particularly residential) developments to ensure appropriate attenuation of music noise and acceptable indoor noise levels.

Northbridge entertainment precinct

Northbridge is considered to be Western Australia's premier entertainment precinct. The area is characterised by a high density of entertainment venues.

Table 1 Tourism/visitor-oriented businesses in Northbridge

Type	Number	% of total
Accommodation	13	8%
Bars	20	12%
Cafes	38	22%
Nightclubs	12	7%
Restaurants/Takeaways	86	51%
Total	169	100%

Source: Lucid Economics 2018

Northbridge contributes significantly to economy of the City of Perth and Western Australia. The *Northbridge Economic Assessment* commissioned by Tourism WA estimates that visitation to Northbridge generates around \$239 million in turnover annually and is predicted to grow as visitor-friendly developments within the precinct (such as the new WA Museum) are completed (Lucid Economics 2018).

Visitation in Northbridge is fairly evenly spread across a 24-hour period with 27 per cent of visits occurring during the day, 33 per cent during the after-work/dinner period and 40 per cent of visitors using the precinct between 10pm and 4am (Lucid Economics 2018), demonstrating a vibrant 24-hour economy.

Northbridge has also attracted an increasing number of permanent residents with State Government policies prioritising infill residential development as the Perth population grows (WAPC 2018b). New residents are drawn to the vibrancy of the location as well as its proximity to the city centre. There are approximately 757 individual residences across 64 properties in the proposed Northbridge special entertainment precinct, with the greatest density of residential development occurring outside of the inner core area.

To support the regulatory impact assessment process, the department commissioned measurement of venue noise levels in Northbridge over August and September 2019. Measured A-weighted levels indicate that amplified music noise outside venues on Friday and Saturday nights (Lloyd George Acoustics 2019) is generally between L_{Leq} 70—90 dB(A). This level of noise is likely to exceed the assigned (or allowable) levels in the Noise Regulations when received at noise-sensitive premises, and areas for future noise-sensitive development, in Northbridge.

Given the importance of our state's cultural industries and Northbridge's contribution to the wider Western Australian economy, there is a good case for establishing a special entertainment precinct in Northbridge.

Northbridge noise complaints

Noise complaints from residents in and around Northbridge relate to the following areas:

- concert and event noise (e.g. Fringe World festival)
- amplified music noise from venues
- amplified music noise from private premises
- patron noise
- road and traffic noise
- construction noise.

According to data provided by the City of Perth, the annual number of complaints about established entertainment venues in Northbridge between 2012 and 2017 has been variable (between 7 and 22 each year).

Complainants include residents, hotel guests and businesses in the area. The number of complaints is relatively limited in the context of Northbridge's overall population. It's possible that some residents, however, are experiencing unresolved issues in relation to particular entertainment premises.

The number of complaints does not necessarily correspond to the areas with high recorded noise levels. This is because the response to noise is subjective, and individuals may become accustomed to higher noise environments over time (DOH 2018).

2 Previous consultation on reforms for Northbridge

In September 2018, the WAPC published the [Planning for entertainment noise in the Northbridge area](#) public consultation paper. The paper was prepared jointly by the Department of Planning, Lands and Heritage and the Department of Water and Environmental Regulation, and was open for public comment from 20 September 2018 – 20 November 2018.

The consultation paper sought feedback on a suite of reforms to establish an entertainment precinct in Northbridge in the City of Perth.

Planning for Entertainment Noise in the Northbridge Area: discussion paper

The 2018 consultation canvassed stakeholder views on a framework for the management of entertainment noise in Northbridge based on the following principles:

Agent of Change: new developments (both noise-sensitive and noise-emitting) would be responsible for noise attenuation.

Designation of a special control area: designation of a special control area would apply special planning controls to protect the health and amenity of residents and the viability of entertainment venues; and to maintain the special character of the entertainment precinct.

Noise impact assessments: planning proposals for new noise emitting and noise receiving developments would be required to undertake a noise assessment to determine the level of noise to be attenuated through design and construction measures.

Construction standards: planning proposals for new noise emitting and noise receiving developments would be required to demonstrate how construction and design will achieve acoustic attenuation to comply with the standards set in the Noise Regulations.

Notification on title: a notification on title would be required for all approved planning proposals affected by entertainment noise.

Amendments to the Noise Regulations: noise protections would be applied to indoor areas of noise-sensitive developments only (with windows and doors closed).

A total of 64 submissions were received from a variety of stakeholders including:

- City of Perth
- other local governments
- Northbridge residents
- property developers
- entertainment venues
- acoustic consultants

- individuals who visit Northbridge for cultural and entertainment purposes.

Key issues raised in submissions

While submissions were broadly in favour of reform to support entertainment venues in Northbridge, there were concerns that the proposed approach did not go far enough to alleviate land use conflict. A summary of key issues raised by stakeholders is outlined below.

- **Uncertainty for venues:** stakeholders raised the issue of ongoing uncertainty for venues under the proposed reforms, and emphasised the preference for levels to be set at the venue. In particular, submissions noted the complexity of venue compliance as a result of indoor levels. The complexity arises from the inability for venues to determine the level of attenuation incorporated in nearby noise-sensitive premises, and thus reasonable emission levels for compliance purposes.
- **Ongoing land use conflict:** a significant number of submissions noted that the proposed reforms, including removal of outdoor assigned levels and adoption of indoor levels, combined with enhanced attenuation for new residential development, would not resolve the existing land use conflict between existing residential development and venues in Northbridge. Ongoing land use conflict was noted by developers, venues and acoustic consultants.
- **Agent of change:** support for adoption of 'agent of change' principles was varied. There was mixed support in particular among developers, venues and arts organisations, and acoustic consultants, some of whom pointed to practical implementation difficulties. A number of submissions noted that agent of change would create an uneven playing field between existing and new venues, and would unfairly disadvantage venues (who typically have less access to capital) compared to developers, which is contrary to the goal of the reforms.
- **Alternative approaches:** a proportion of submissions advocated for alternative approaches to those proposed, such as a 'precinct approach' to entertainment venues and noise management, and expansion of the use of r. 19B of the Noise Regulations to provide an avenue for venue approvals for entertainment venues.

This option is discussed further in section 4 of this consultation paper. For the reasons outlined, it is not the government's preferred approach.

3 Management of environmental noise

Environmental noise can be described as unwanted sound or noise pollution that originates from sources such as transport, commercial and industrial activities, construction sites, residential activities and entertainment.

The primary instruments for noise regulation in Western Australia are the *Environmental Protection Act 1986* (EP Act) and the Noise Regulations.

The Noise Regulations set legally enforceable assigned (or allowable) noise levels for noise emitted from a premises or public place when received at another premises. The assigned levels are defined as outdoor levels and vary according to the type of premises receiving the noise and the time of day the noise is received. Higher levels of protection are afforded to the most sensitive premises, classed as 'noise-sensitive'.

What does 'noise sensitive' mean?

'Noise sensitive' has a specific meaning in the Noise Regulations. Noise-sensitive premises are listed in Part C of Schedule 1 of the Noise Regulations and include:

Residential accommodation, rural properties, caravan parks and camping grounds, small hospitals (less than 150 in-patients), residential care facilities, schools, churches and places of worship, hotel accommodation, aged care facilities, childcare facilities, prisons and detention centres, and water storage dams and catchments.

A noise-sensitive purpose, in relation to a building, means the part of the building used for residential accommodation or the purposes outlined above.

For the purposes of special entertainment precincts, we are primarily concerned with the health and amenity of residents, particularly in the sleeping areas of residential accommodation.

Local governments administer the Noise Regulations throughout Western Australia. Local government Chief Executive Officers (CEOs) have delegated powers to address noise issues from premises within their jurisdiction. Environmental health officers can also be appointed as Authorised Persons and Inspectors under Sections 87 and 88 of the EP Act for the purpose of investigating unreasonable noise emissions.

If the noise received at noise-sensitive premises exceeds the assigned levels in the Noise Regulations, an authorised officer has a range of enforcement options, including infringement notices, noise abatement directions, environmental protection notices, and prosecution, available under the EP Act to protect the health and amenity of sensitive receivers.

The assigned levels set in the Noise Regulations, and environmental noise levels internationally, are A-weighted levels or dB(A). The '(A)' or 'A-weighting' represents a frequency weighting applied to sound that best aligns with the human ear's response to sound at low sound pressure levels.

Managing amplified music noise in entertainment precincts

Environmental noise can impact public health and amenity. The World Health Organisation (WHO) defines 'health' as '[a] state of complete physical, mental and social well-being and not merely the absence of disease or infirmity' (WHO 2018). This definition embraces the concept of wellbeing and thus considers noise impacts such as annoyance, interference with communication, and impaired task performance 'health' issues.

While exposure to very high levels of noise can lead to direct injury to the auditory system, noise can also be a non-specific stressor that adversely affects physical and mental health.

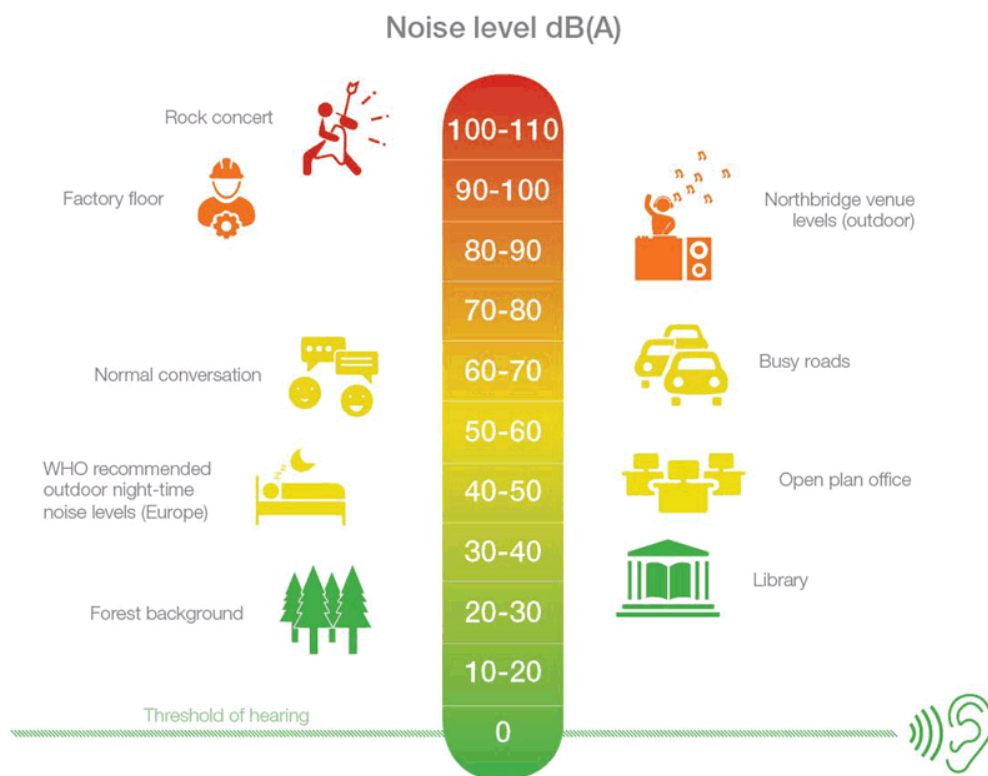


Figure 2 Comparison of familiar sounds at their noise levels

The WHO *Night Noise Guidelines for Europe* outline impacts of night-time noise on health. The guidelines draw on indirect evidence, such as effects of noise on sleep and the association between sleep and health, where direct evidence is not available. The guidelines also acknowledge that, in the range between 30dB and 55dB, impacts 'will depend on the detailed circumstances of each case'.

Entertainment noise

The capacity of a noise to induce annoyance depends upon its characteristics. Noise from amplified music has the potential to cause annoyance and disturb sleep because it contains significant low frequency noise components (sometimes referred to as 'doof').

While human hearing is relatively insensitive in the low frequency range compared to higher frequencies, there is a greater increase in annoyance at lower frequencies with changes in level. Low frequencies pass more easily through building façades than high frequencies, essentially stripping away the higher portions of music noise and leaving behind the low frequency 'doof'. The inability of building façades to reduce this low frequency content is a major issue with amplified music noise.

While the A-weighted sound pressure level is used to assess the impact of general environmental noise, it underestimates the sensitivity of the ear when there are high levels of low frequency noise. Additionally, human hearing is more sensitive to changes in acoustic energy in low frequencies than in the mid to high frequencies. These aspects of hearing response suggest that the A-weighting may not be the most appropriate metric where music noise is concerned.

Generally the low frequency components associated with entertainment noise are found in the 63 Hz and 125 Hz octave bands, although occasionally elevated levels can extend to the 31.5 Hz octave band. Control of sound levels in these octave bands will better address the low frequency impacts associated with entertainment noise.

An important consideration for low frequency noise in residential settings is the degree to which the noise can be attenuated by a building façade. The level of noise reduction from one side of a building element to the other is known as the transmission loss. Transmission loss is typically determined by testing or mathematical prediction and performance is often specified in octave bands. Sound reduction testing of building elements is not usually undertaken for frequencies below 100 Hz and the most common prediction methods only predict performance down to the 50 Hz one-third octave band. So, for the purpose of criteria for entertainment noise, often only the 63 Hz and 125 Hz octave bands are considered.

4 Options for the management of amplified music noise in entertainment precincts

This paper outlines reform options for the management of amplified music noise in entertainment precincts and satisfies the consultation element of a regulatory impact assessment (RIA) for the proposed changes to the Noise Regulations.

An RIA requires government to consider the costs and benefits of a number of regulatory and non-regulatory options before making a decision on how to change the way an issue is managed. The RIA process aims to reduce the regulatory burden on government, businesses and the community by ensuring that all options are considered and that unintended consequences of regulation are avoided where possible.

New or amended regulations should address a clear market or regulatory failure. In the case of entertainment precincts such as Northbridge, historic planning decisions have resulted in noise-sensitive development being permitted with inadequate separation from established entertainment venues. This trend can be exacerbated by infill development in mixed use areas, where convergence of land uses causes conflict when noise-sensitive development is permitted close to existing noise emitters.

The current framework for regulation of environmental noise is designed to protect the health and amenity of receivers, while still allowing for some activities that cannot reasonably and practicably meet noise limits. These activities – including sporting, cultural and entertainment events – are considered acceptable either because of their temporary nature or because of the community benefits they confer. Except in relation to these specific activities, the noise emitter is responsible for ensuring noise levels at the receiver comply with the assigned levels.

While the Noise Regulations are highly effective at protecting the health and amenity of the community, they do not recognise 'first occupancy'. As a result, conflicts may arise when the requirements of the Regulations aren't considered at development stage.

Further, the assigned levels provide for protection of amenity in all the noise-sensitive areas of relevant premises, including outdoor areas such as balconies and patios. Protection of such outdoor areas in highly urbanised mixed-use entertainment precincts, subject to high levels of ambient noise, may not be practicable. In these environments it may be necessary to focus on providing protection in internal living spaces.

Western Australia's Regulatory Impact Assessment Guidelines state that '[r]egulatory failure may occur where regulation is not ... targeted to address an identified issue and there are unintended or undesirable consequences of that regulation'. (DOTAF 2010)

These combined features of current planning and environmental frameworks have led to unresolved tension between different land uses and different needs of the community in an entertainment precinct.

Over the last 12 months, the State Government has considered a number of reform options for Western Australia's entertainment precincts. In 2018, community input was sought on options to implement agent of change planning principles and adopt indoor assigned levels for entertainment precincts. Stakeholder feedback has informed development of a revised approach to better achieve the government's reform objectives.

A detailed comparison of reform options is outlined below.

Option 1: status quo

Under the current legislative framework, most environmental noise, including noise from entertainment venues, is managed by local government (generally Environmental Health Officers) who implement the provisions of the Noise Regulations under delegation.

The assigned noise levels are the levels of noise allowed to be received at a premises at a particular time of the day or night. It is therefore an offence for the noise emitted from a premises to exceed the assigned level at another premises.

If noise-sensitive development is allowed to occur next to an established noise emitting premises, such as a venue, the noise emitting premises may be required to modify operations to ensure that noise at the new receivers complies with the assigned levels.

If a receiver complains about noise, a local government will usually investigate. In the case of an entertainment venue where the noise emissions result in a breach of the assigned levels at a receiver, the venue must either reduce the noise levels to meet the assigned levels, or risk enforcement action such as prosecution.

Option 1: advantages

- Cost to government and the taxpayer: option 1 represents no net cost to the taxpayer as no changes are required to planning schemes or regulations.
- Protections for all noise-sensitive receivers: the current regulatory regime protects the health and amenity of noise-sensitive receivers (including residents). The assigned levels have been designed to ensure that noise from other premises is kept to acceptable standards.

Option 1: disadvantages

- entertainment venues may be required to alter operations in response to noise complaints: if noise complaints are numerous and sustained, local government officers may require an entertainment venue to reduce their noise emissions. For some businesses this could mean significant investment in infrastructure, for others, it may require changes to the way the business operates including restriction of operations. For entertainment venues it is rarely as simple as

turning the music down. Customers have expectations of how noisy or vibrant an entertainment venue should be (both inside and outside of the venue). Significant changes to the way an entertainment venue operates will affect the business it attracts and its future viability.

- land use planning conflicts may persist: under the existing planning framework, noise-sensitive premises can converge (encroach) on existing noise emitters, including venues. As noise emitters are responsible for emissions under the EP Act, the emitter may be required to moderate their operations to comply with the assigned levels (which are outdoor levels) at the receiver. This may result in either risks to ongoing viability of entertainment venues, or inadequate protection of residents from environmental noise, or both. In addition, there may be unwillingness on the part of local government to enforce the Noise Regulations, particularly in cases where longstanding and iconic venues are the subject of complaints by residents.

Option 2: agent of change and indoor assigned levels

In 2018, the State Government investigated the 'agent of change' planning approach as part of a suite of reforms to manage noise and competing interests in Northbridge and, potentially, in future entertainment precincts in Western Australia.

A comprehensive summary of the approach can be found in the 2018 consultation paper *Planning for entertainment noise in the Northbridge area*.

Agent of change requires that the person or business responsible for a new development bears the cost associated with the protection of noise-sensitive receivers (primarily residents). In practice this means that new residential development needs to account for high levels of amplified music noise by building to a standard that protects residents from unreasonable noise. New entertainment venues, on the other hand, need to implement noise attenuation measures at their business.

The agent of change approach was investigated for adoption in the Northbridge area through the designation of a special control area via a local planning scheme amendment. The proposed scheme amendment required:

- a. Noise impact assessments: new noise-emitting and noise-receiving developments would be required to undertake a noise assessment to determine the level of noise to be attenuated through design and construction measures.
- b. New construction standards: new noise-emitting and noise-receiving developments would be required to demonstrate how construction and design will achieve acoustic attenuation to comply with the standards set in the Noise Regulations.
- c. Notification on title: all approved planning proposals affected by entertainment noise would require information about noise impacts on the property title.

The planning elements of option 2 were complemented by proposed amendments to the Noise Regulations. Under the amended regulations, outdoor assigned levels in

designated areas would be removed and equivalent protections would be provided for indoor areas of noise-sensitive premises (with windows and doors closed).

Option 2: advantages

- **Fairness:** Agent of change requires that the new development is responsible for incorporating appropriate noise attenuation to protect residents from unreasonable noise (indoors). The option 2 approach was adapted from the Victorian Government's agent of change approach for live music venues in 2014 and addressed the State Government's election commitment to investigate the agent of change approach to support creative industries in WA (WA Labor 2016).
- **Protections for all noise-sensitive receivers:** amendments to the Noise Regulations under this option would set new assigned levels *inside* residences with doors and windows closed. This change would acknowledge the need to protect the health and amenity of existing and future residents from unreasonable noise in noise-sensitive areas of residential buildings.

Option 2: disadvantages

- **Implementation difficulties:** although the agent of change approach aims to strike a balance between new entertainment venues and residential developments, there are significant practical difficulties with implementing new building requirements and adopting indoor assigned levels. The 2018 discussion paper acknowledged the difficulty of indoor noise measurement, particularly for entertainment noise with significant low frequency components. In addition, basing new development standards on acoustic predictions is inherently uncertain.
- **Ongoing land use conflict:** option 2 does not remove the existing land use conflict between residents and entertainment venues. Although new residents would benefit from increased sound attenuation and noise-sensitive encroachment would not get any worse, the difficulties for venues in respect of existing noise-sensitive development remain unresolved.
- **Uncertainty for new venues:** as compliance levels would be indoor levels, new venues would be required to make assumptions about the level of attenuation incorporated into nearby noise-sensitive premises. This is likely to be highly complex or impracticable, and lead to ongoing uncertainty in respect of venue operations.
- **Discouragement of new entertainment venues:** while the agent of change approach provides a level of protection for existing venues with respect to further noise-sensitive encroachment, it discourages new entertainment venues by significantly increasing establishment costs (through enhanced attenuation requirements).

Given the implementation issues and lack of venue certainty associated with this option, it is not considered to satisfy the reform objectives and is not the government's preferred option.

Option 3: special entertainment precincts

A 'precinct approach' is an alternative to the agent of change model outlined in option 2. Under this option, the local government will implement key planning reforms, including precinct-wide building attenuation requirements for new residential development to future-proof the area for amplified music noise.

The planning reforms will be complemented by amendments to the Noise Regulations to provide for uniform noise emission levels for approved venues within a special entertainment precinct.

This approach is broadly consistent to that adopted in Brisbane's Fortitude Valley. (See Fortitude Valley case study at Appendix 1.)

The reforms for option 3 would be implemented through the following suite of reforms:

WAPC position statement on special entertainment precincts

The WAPC will outline the principles of a special entertainment precinct and provide high level policy support for their establishment in appropriate locations in Western Australia. The draft WAPC position statement can be found on the Department of Planning, Lands and Heritage's [website](#).

Designation of a special entertainment precinct in a special control area

A local government may designate a special control area as a special entertainment precinct via an amendment to their local planning scheme. The scheme amendment will require:

- a. An external amplified music noise level to identify the expected street level vibrancy within the special entertainment precinct for planning purposes.
- b. Adoption of precinct-wide design and construction standards for new residential development to achieve internal noise levels consistent with the protection of health and amenity¹ (equivalent to 47 Leq dB(Lin) in the 63 Hz octave band and no more than 41 Leq dB(Lin) in the 125 Hz octave band). Adoption of suitable standards would be demonstrated by the submission of a Transmission Loss Design Report for all new residential development and should recognise the external amplified music noise level.
- c. New entertainment venues to undertake a noise assessment, in the form of an Acoustic Report, to determine the level of noise to be attenuated through design and construction measures, consistent with the external amplified music noise level.
- d. As a condition of development for noise-sensitive premises, a notification pursuant to section 70A of the *Transfer of Land Act 1893* to inform prospective owners of the likelihood of higher noise levels.

¹ Noise levels set by the UK Department of Environment, Food and Rural Affairs consistent with protection of health and amenity.

The external amplified music noise level is **not a compliance level** but a level set by the local government to signal the expected street level 'vibrancy' within the precinct, from which building attenuation standards can be determined.

Amendments to the Noise Regulations

The Regulations will be amended to provide an option for entertainment venues located within the special entertainment precinct to apply for approval to exceed the assigned levels.

Generally, approvals will provide for uniform noise levels for venues located within the special entertainment precinct aligned to the levels set out in the local planning scheme (less an adjustment, where relevant, to account for cumulative noise effects). Venue approvals are not compulsory and will be provided on an opt-in basis.

Venues located in the special entertainment precinct without a venue approval would continue to be subject to the requirements of the assigned levels set out in Regulation 7.

Consistent with their responsibility for administering the Noise Regulations, the local government CEO will determine applications and issue venue approvals.

While venue approvals will generally be set consistent with the external amplified music noise level, the CEO may specify the most appropriate compliance measurement location, or require an acoustic report or a noise management plan which describe how the venue will comply with the relevant venue level.

Special entertainment precincts established by local governments will be listed in a Schedule to the Noise Regulations. Entertainment venues located within special entertainment precincts listed in the Schedule will be eligible to apply for a special entertainment precinct venue approval.

Option 3: advantages

- Increased certainty for entertainment venues: entertainment venues with a venue approval will have increased certainty about the maximum amplified music noise level they can emit (measured at a specified point on the venue premises). Venue approvals will be in effect for a fixed period of time, providing business certainty over a fixed period.
- Certainty for developers: a new standard for design and construction of residential development, or mixed use that includes residential use, will include specific requirements for noise transmission loss. The transmission loss will relate directly to the external amplified music noise level specified in the scheme amendment. The higher the external amplified music noise level, the higher the required transmission loss for new development.
- Stronger night-time economy: establishing shared expectations of street vibrancy and precinct characteristics will future-proof important entertainment precincts and have flow-on benefits for surrounding businesses, visitors and residents seeking a vibrant arts and cultural experience.
- Protection of health and amenity for new residents: new residents will be protected from unreasonable noise due to more stringent noise attenuation

standards. Venue approvals will effectively be 'capped' at the level set in the scheme, to future proof the area for a given level of noise.

Option 3: disadvantages

- Existing noise-sensitive premises may not be appropriately acoustically treated for the levels of amplified music noise expected in a vibrant entertainment precinct. Retro-fitting noise attenuation measures to existing noise-sensitive premises may assist in protecting the health and amenity of the resident, but will impose a cost on the building owner.

Implications of special entertainment precincts for residents

The suite of reforms for special entertainment precincts are intended to provide certainty for venues, by allowing levels for approved venues to be set near the venue premises, and protection for residents. Protection of residential premises is achieved through minimum construction standards for new residential development, ensuring that special entertainment precincts become better protected from the impacts of amplified music noise over time.

Protections for new residential premises

New residential development will be designed and constructed with the aim of achieving internal noise levels of no more than 47 Leq dB(Lin) in the 63 Hz octave band and no more than 41 Leq dB(Lin) in the 125 Hz octave band. These levels are consistent with protection of health and amenity for residents, ensuring that residents can enjoy their living areas without excessive noise intrusion. Residents cannot, however, expect quiet internal noise levels with their windows and doors open.

Protections for existing residential premises

Existing premises are unlikely to incorporate the same level of attenuation for amplified music noise as that required for new residential development.

In granting a venue approval, the CEO may also specify the appropriate compliance measurement location, or require an acoustic report or noise management plan to outline how the venue will comply with the relevant level.

5 Establishing a special entertainment precinct in Northbridge

The State Government is committed to progressing a solution to the issue of entertainment noise and land use conflict, with an initial focus on Perth's premier entertainment precinct. The Northbridge area has a mix of entertainment, cultural and residential land uses unique to this location, and has been the subject of significant deliberation, modelling and research for almost two decades.

The City of Perth is contemplating a precinct boundary for Northbridge to delineate a special entertainment precinct within the local planning scheme. Within the contemplated precinct, the 'core' area has a high density of entertainment venues and relatively low levels of residential development. The contemplated core area is bounded by William, Roe, Aberdeen and Parke streets and contains 38 identified entertainment venues and 148 individual residences located within five properties. There is one single-dwelling house in this area.

Measurement of venue noise levels in Northbridge commissioned by the department and conducted between August-September 2019 indicates that amplified music noise outside venues on Friday and Saturday nights is generally between 80-100 dB in the 63 Hz octave band, with a small proportion of venues emitting noise over 100 dB in the 63 Hz octave band (Lloyd George Acoustics 2019).

The City of Perth considers that the community has an expectation that noise in the core part of Northbridge will spill into the street and contribute to a vibrant precinct throughout busy night-time periods.

Changes to City of Perth's *City Planning Scheme No.2* to establish the Northbridge special entertainment precinct are likely to propose an external amplified music noise level in the core of L_{Leq} 86 dB in the 125 Hz octave band and L_{Leq} 95 dB in the 63 Hz octave band. The external amplified music noise level is set with regard to community expectations of street level vibrancy but is in excess of the assigned levels in the Noise Regulations.

As a consequence, existing residents may receive noise inside sensitive-use areas of their homes which exceeds assigned (allowable) levels. As the external amplified music noise levels proposed by the City of Perth are close to the noise levels currently emitted by venues, existing residents in Northbridge may not notice a significant difference to the current situation.

Under the amended Noise Regulations, entertainment venues in the core area may apply for venue approvals. Approvals for venues in the core will provide for uniform noise levels aligned to the levels set for the Northbridge core (less an adjustment, where relevant, to account for cumulative noise effects).

Outside of the core area, the land use mix accommodates a higher proportion of residential use. The City of Perth is considering designating this as the 'frame' area. There are 609 individual residences across 59 properties and 20 entertainment venues within the frame area.

Managing amplified music noise in entertainment precincts

The external amplified music noise level contemplated by the City of Perth in the frame area has regard to community expectations and the level of noise attenuation which is practicable for new residential premises. The external amplified music noise level proposed by the City of Perth for the frame is L_{Leq} 70 dB in the 125 octave band and L_{Leq} 79 dB in the 63 Hz octave band.

At this noise level, it is technically and economically feasible to construct new residential buildings to provide for the protection of health and amenity of residents inside their homes (Gabriels Hearne Farrell 2019).

Under the amended Noise Regulations, entertainment venues in the frame area may apply for venue approvals under the Noise Regulations. Approvals for venues in the frame will generally provide for uniform noise levels aligned to the levels set for the Northbridge frame (less an adjustment, where relevant, to account for cumulative noise effects).

Capping venue levels at the level set in the scheme will ensure new residential attenuation requirements are adequate in the context of existing and new venues.

6 Potential application of reforms to other entertainment precincts

The proposed planning and regulatory reforms outlined in this paper may be adopted in other areas of Western Australia in addition to Northbridge.

Local government authorities considering the establishment of a special entertainment precinct will need to consider relevant planning matters, in particular the WAPC's draft Position Statement on special entertainment precincts.

The proposed process for establishing a special entertainment precinct is the designation of a special control area through an amendment to the local planning scheme. As outlined in the WAPC draft position statement, the scheme amendment would be required to address:

- an external amplified music noise level to identify street level vibrancy for planning purposes
- precinct-wide construction standards (building transmission loss) for new residential development to achieve internal levels consistent with protection of health and amenity
- acoustic reports for new noise emitting venues
- notifications on title for all approved planning proposals for noise-sensitive developments located in the proposed precinct.

Special entertainment precincts established consistent with the above will be listed in a Schedule to the Noise Regulations.

Venues located in special entertainment precincts listed in the Schedule will be able to apply to the CEO for a venue approval consistent with considerations outlined in this paper.

7 Next steps

This consultation provides an opportunity for broad stakeholder input on approaches for the management of amplified music noise in Western Australia's vibrant, mixed use entertainment precincts

The consultation will inform the RIA of amendments to the Noise Regulations. Proposed amendments will provide for venues located within a special entertainment precinct to apply for a venue approval.

While stakeholder input is sought on the broad approach, including its application to other areas of the state, Northbridge is the main focus of the current regulatory impact assessment.

Proposed amendments to the Noise Regulations are just one element of a broader suite of reforms. Planning reforms set out in the WAPC draft position statement and the City of Perth's anticipated amendment to *City Planning Scheme No. 2* are not subject to RIA requirements, as these reforms do not require changes to regulation.

However, each reform element has its own consultation process and stakeholders are encouraged to participate in the consultations relevant to their areas of interest.



Western Australian Planning Commission's position statement:

- provides overarching definition and approach and the criteria for local governments to create special entertainment precincts.



Department of Water and Environmental Regulation's Noise Regulation amendments:

- allows entertainment venues in a special entertainment precinct to apply for a venue approval that will allow the emission of amplified music noise consistent with the level set by the local government
- lists special entertainment precincts in a new Schedule.



City of Perth's special control area:

- sets expected external amplified music sound levels for core and frame areas of Northbridge
- sets requirements for building location, design and construction standards for new noise sensitive development
- requires entertainment noise information on property titles
- requires noise impact assessment from new entertainment venues.

Figure 3 Reform package consultation elements

Following the conclusion of the consultation period, submissions will be analysed to develop a detailed understanding of the regulatory impacts of proposed options and underpin sound regulatory and policy development.

The next stage of the process will be development of a decision regulatory impact statement which will analyse impacts of the options presented in this paper and provide further information on implementation of the preferred approach.

Appendices

Appendix A – Fortitude Valley special entertainment precinct

The Fortitude Valley special entertainment precinct was established by the City of Brisbane in 2006. Although the legislative framework for the Fortitude Valley precinct is very different from the proposed Northbridge special entertainment precinct, the vibrancy outcomes, residential construction and venue requirements are similar.

Like Northbridge, Fortitude Valley is home to a mix of live music venues, nightclubs, bars, restaurants, cafes and other commercial businesses in addition to residential development. The intent of the reforms was to protect the long-term future of the live music scene and vibrancy of the precinct without exposing residents to unreasonable levels of amplified music noise.

The Fortitude Valley special entertainment precinct consists of the following features:

- 1 Brisbane City Council designated special entertainment areas within the Brisbane City Plan 2014 to provide an exemption from the noise provisions of the Liquor Regulations 2002. Amplified noise in the precinct is now regulated by the Council under a local law. The local law allows entertainment venues to emit a level of noise at their boundary regardless of how close the nearest residence is.
- 2 New residential development in the core and buffer areas of the precinct are required to comply with performance outcomes for noise insulation specified in the Fortitude Valley neighbourhood plan, which is part of the Brisbane City Plan 2014. The construction performance outcome requires a minimum reduction in sound pressure level (i.e. transmission loss) between the exterior of the building and the bedroom or living room of the residence.
- 3 The local law requires entertainment venues in the core of the precinct to have an amplified music venue permit. The noise limits of the local law are illustrated in the table below:

Managing amplified music noise in entertainment precincts

Table 2 Amplified music noise levels Fortitude Valley

Venue location	Day and time	Amplified music noise level 1	Amplified music noise level 2
Special entertainment precinct core area A	10am – 12am on Sunday, Monday, Tuesday, Wednesday and Thursday 10am Friday to 1am Saturday 10am Saturday to 1am Sunday	LC _{eqT} 90 dB	LL _{eqT} 45 dB in any one-third octave band between and including 31.5 Hz and 125 Hz LA _{eqT} 33 dB
	All other times	LC _{eqT} 80 dB and LL _{eqT} 73 dB in any one-third octave band between and including 31.5 Hz and 125 Hz	LL _{eqT} 43 dB in any one-third octave band between and including 31.5 Hz and 125 Hz LA _{eqT} 30 dB
Special entertainment precinct core area B	10am to midnight Friday and Saturday 10am to 11.30pm on a Sunday, Monday, Tuesday, Wednesday and Thursday	LC _{eqT} 88 dB	LL _{eqT} 45 dB in any one-third octave band between and including 31.5 Hz and 125 Hz LA _{eqT} 33 dB
	All other times	LC _{eqT} 65 dB and LL _{eqT} 55dB in any one-third octave band between and including 31.5 Hz and 125 Hz	LL _{eqT} 43 dB in any one-third octave band between and including 31.5 Hz and 125 Hz LA _{eqT} 30 dB

Research into the economic value of the Fortitude Valley special entertainment precinct found that Brisbane's night-time economy is growing faster than the rest of Brisbane's economy in terms of sales revenue, employment and number of businesses. Of the night-time economy hotspots investigated, Fortitude Valley experienced the greatest growth, with a seven per cent increase in establishments, five per cent increase in employment and nine per cent increase in sale revenue.

Glossary

dB	Decibel. Unit of measurement used to measure the intensity of sound. Decibels are measured on a logarithmic scale.
dB(A)	A-weighted decibel. An expression of the relative loudness of sounds as perceived by the human ear. In the A-weighted system, the decibel values of sounds at low frequencies are reduced, compared with unweighted decibels, in which no correction is made for audio frequency.
dB(C)	C-weighted decibel. C-weighting is an approximation to the frequency sensitivity of human hearing at higher noise levels and better captures the value of low frequency content – particularly the bass elements of amplified music.
LAeq	A-weighted equivalent sound level.
LAeqT	The notional A-weighted, equivalent continuous sound level which, if it occurred over the same time period, would give the same noise level as the actual varying sound level. The T denotes the time period over which the average is taken.
LLeq	The linear equivalent sound level.
LLeqT	The notional linear equivalent continuous sound level which, if it occurred over the same time period, would give the same noise level as the actual varying sound level. The T denotes the time period over which the average is taken.
LCeqT	The notional C-weighted equivalent continuous sound level which, if it occurred over the same time period, would give the same noise level as the actual varying sound level.
Lnight	The A-weighted Leq (equivalent noise level) over the 8-hour night period of 11pm to 7am, also known as the night noise indicator.
Octave band	<p>A range of frequencies whose upper frequency limit is twice that of its lower frequency limit. In acoustical measurements, sound pressure level is often measured in octave bands, and the centre frequencies of these bands are defined by ISO as 31.5 Hz, 63 Hz, 125 Hz, 250 Hz, 500 Hz, 1 kHz, 2 kHz, 4 kHz, 8 kHz and 16 kHz to divide the audio spectrum into 10 equal parts.</p> <p>The sound pressure level of sound that has been passed through an octave band pass filter is termed the octave band sound pressure level.</p>

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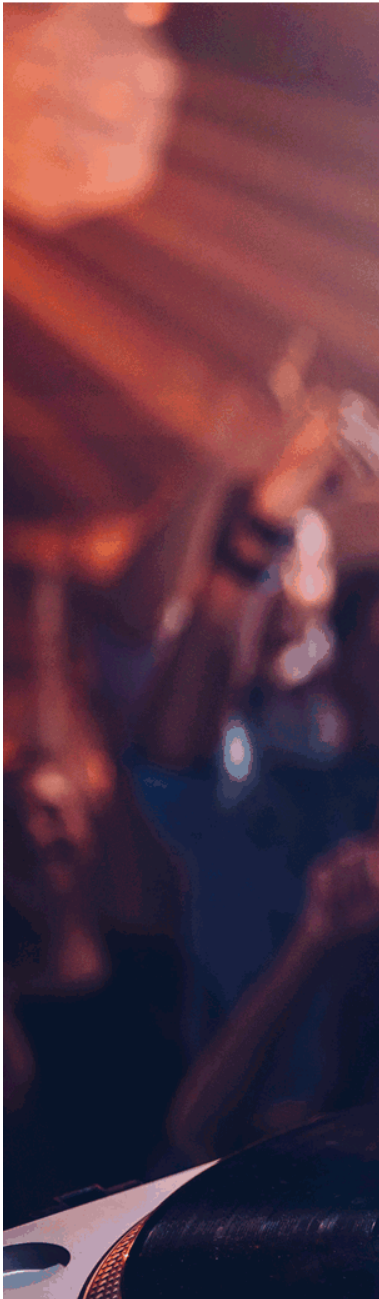
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CITY OF VINCENT

ENQUIRIES TO: Prue Reddingius (9273 6512) Coordinator Environmental Health
Tim Elliott (9273 6528) A/Coordinator Policy & Place
OUR REF: SC56-04, D20/15170

12 February 2020

Western Australian Planning Commission
Email: infrastructure@dplh.wa.gov.au

Dear Sir/Madam

City of Vincent Submission – Draft Position Statement: Special Entertainment Precincts, November 2019

Thank you for providing the City with the opportunity to make a submission on the Draft Position Statement: Special Entertainment Precincts. This matter was considered at the City's Ordinary Meeting of Council on 11 February 2020.

The City supports the intent of the reforms to establish special entertainment precincts in Western Australia proposed by the State Government. The changes have particular relevance to Vincent given the City's strong desire to have a vibrant 24-hour city, the prevalence of existing entertainment music venues in our Town Centres, along with the City's strategic desire to see an increase in residential accommodation within these areas. The Leederville Town Centre and the Jazz Precinct planned as part of the Arts Development Action Plan 2018-2020 are opportune areas where a SCA could be considered.

The City would like to work with the Western Australian Planning Commission and the Department of Water and Environmental Regulation to address the matters listed in **Attachment 1** prior to finalising the position statement.

Should you have any queries please contact A/Coordinator Policy and Place Tim Elliott 9273 6528 or via email: mail@vincent.wa.gov.au.

Yours sincerely

David MacLennan
CHIEF EXECUTIVE OFFICER

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Attachment 1 – Matters for consideration in response to the proposal

	Matter	Recommendation
1.	The initial paper by the WAPC sought to protect established live music venues in line with the principles of Creative WA, however the proposed changes have been developed to cater to large entertainment precincts with a high concentration of entertainment venues (namely Northbridge). It seemingly fails to accommodate for isolated but significant local venues which cannot reasonably be considered to represent entertainment precincts, but which nevertheless contribute significantly to the cultural economy and provide for local activity and diversity.	That the Commission, in consultation with the Department of Water and Environmental Regulations, undertake further investigation to establish a suitable option that balances the needs of supporting dispersed but culturally and economically significant live entertainment venues, with the needs of noise sensitive receivers in their locality.
2.	The position statement fails to address the conflict(s) that will exist where noise sensitive land uses are constructed or are already existing adjacent to a special control area. In the City of Vincent's case, the proposed special control area of the City of Perth (Northbridge) directly abuts residents of Vincent along Newcastle Street. It is not clear how this would be managed.	That the Commission, in consultation with the Department of Water and Environmental Regulations, investigate this conflict and provide a suitable solution prior to progressing with the position statement or amendments to the Noise Regulations. This includes providing guidance on investigation and enforcement with respect to cross boundary jurisdiction.
3.	The proposed approach will mean that existing noise sensitive premises within a designated entertainment precinct may experience higher than desirable noise levels. As the paper states, it is unlikely that these buildings have been adequately constructed or attenuated to accommodate for the higher sound levels of the precinct with any remediation costs to fall with the Owner.	That the City request the Commission engage with the Department of Water and Environmental Regulations to provide guidance as to how this may adequately be addressed.
4.	There is insufficient information to identify what support, if any, is proposed to be provided to Local Government in establishing set external sound levels of an entertainment precinct.	Recommended to provide support to Local Government to ensure a level of consistent implementation.
5.	The National Construction Code (NCC) outlines requirements for attenuating buildings. The Planning and Development Act outlines that Building standards prevail. Where a proposal needs to be attenuated to a high standard in accordance with a Local Planning Scheme how can the City require that the high standard be maintained when the requirements of the NCC are lesser.	Consideration and commentary regarding the NCC and how Local Government can require a higher standard of noise attenuation than that offered in the NCC.
6.	Establishing a special control area/entertainment precinct in a local planning scheme would require significant time and costs for the City.	As there is shift of roles/responsibilities from State to Local Government the City requests comment from the Department as to whether opportunities will be presented to seek grants or funding to undertake this work.



CITY OF VINCENT

ENQUIRIES TO: Prue Reddingius (9273 6512) Coordinator Environmental Health
Tim Elliott (9273 6528) A/Coordinator Policy & Place
OUR REF: SC56-04, D20/15177

12 February 2020

Department of Water and Environmental Regulation
Email: entertainment-noise@dwer.wa.gov.au

Dear Sir/Madam

City of Vincent Submission – DWER Consultation Paper ‘Managing Amplified Music Noise in Entertainment Precincts’, November 2019

Thank you for providing the City with the opportunity to make a submission on the consultation paper ‘Managing amplified music noise in entertainment precincts’. This matter was considered at the City’s Ordinary Meeting of Council on 11 February 2020.

The City supports the intent of the reforms to establish special entertainment precincts in Western Australia proposed by the State Government. The changes have particular relevance to Vincent given the City’s strong desire to have a vibrant 24-hour city, the prevalence of existing entertainment music venues in our Town Centres, along with the City’s strategic desire to see an increase in residential accommodation within these areas. The Leederville Town Centre and the Jazz Precinct planned as part of the Arts Development Action Plan 2018-2020 are opportune areas where a SCA could be considered.

The issue at hand is inherently complex and impacts both an important local industry and residents. Changes to the Noise Regulations should be balanced to ensure it is supported by extensive scientific research to ensure the wellbeing of affected residents is not unduly compromised.

The City would like to work with the Western Australian Planning Commission and the Department of Water and Environmental Regulations to address the matters listed in **Attachment 1** prior to progressing with any proposed reforms of the Noise Regulations.

Should you have any queries please contact Coordinator Environmental Health Prue Reddingius 9273 6512 or via email: mail@vincent.wa.gov.au.

Yours sincerely

David MacLennan
CHIEF EXECUTIVE OFFICER

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Attachment 1 – Matters for consideration in response to the proposal

Issue	Recommendation
The paper does not provide details on what a Venue Approval may look like with regard to conditions (such as will a venue approval be time limited? what type of conditions can be applied?).	The City would request the Department consult with all relevant stakeholders prior to a decision being made.
There is limited information in the paper on whether an amendment to the Noise Regulations would enable a venue to emit higher sound levels (in the prescribed area) that those set in a local planning scheme.	The City considers that this should be clarified, to ensure applications for a Venue Approval are made in line with the set sound levels in the local planning scheme.
Will applicants (of a Venue Approval in a special entertainment precinct) have the ability to make an appeal to a condition of approval, namely the capped sound level of the precinct?	To clarify, the City considers this would be counterproductive to the intent of an established special entertainment precinct.
The consultation paper fails to address the conflict(s) that will exist where noise sensitive land uses are constructed or are already existing adjacent to a special control area. In the City of Vincent's case, the proposed special control area of the City of Perth (Northbridge) directly abuts residents of Vincent along Newcastle Street. It is not clear how this would be managed.	That the Department, in consultation with the WAPC investigate this conflict and provide a suitable solution prior to progressing with the position statement or amendments to the Noise Regulations. This includes providing guidance on investigation and enforcement with respect to cross boundary jurisdiction.
In combination with the draft position statement of the WAPC, the implementation of Option 3 will likely see existing noise sensitive premises within a designated entertainment precinct experience higher than desirable noise levels. It is unlikely that these buildings have been adequately constructed or attenuated to accommodate for the higher sound levels of the precinct with any remediation costs to fall with the Owner.	That the City request the Department, in consultation with the WAPC further investigate this issue to provide guidance as to how this may adequately be addressed.
The proposed reforms seemingly fail to address cumulative noise from multiple venues next to each other. Further the impact when new venues are established in an entertainment precinct.	That the Department investigate this issue and propose a resolution to adequately address and manage the impacts.
Whilst there is a proposal to consider placing a Notification on Title for landowners in a special entertainment precinct (as a mitigation/control measure), it must be acknowledged that such notifications will only apply to new development and in any event, is often only effective on Owner-Occupier dwellings. In the City's experience, tenants are often not made aware of such issues prior to occupying a dwelling.	It is recommended that additional measures are also pursued to ensure existing and future residents are made aware of the noise, the potential scale of impact on amenity, what can be expected and any processes for recourse.
With reference to the enforcement of a venue approval, that the penalties for non-compliance be proportionate to the offence, having regard to the flexibility already afforded to those Venues.	The City supports proportional enforcement options should a breach of a venue approval exist. For clarity, the City considers that a breach of a condition of venue approval should be consistent with a Tier 2 offence of the <i>Environmental Protection Act 1986</i> .

8 CHIEF EXECUTIVE OFFICER**8.5 INTERSTATE CONFERENCE ATTENDANCE - NATIONAL CLIMATE EMERGENCY SUMMIT, 14-15 FEBRUARY 2020, MELBOURNE - CR HALLETT**

Attachments: Nil

RECOMMENDATION:

That Council:

- 1. APPROVES** Cr Hallett's attendance on behalf of the City of Vincent at the National Climate Emergency Summit on 14 – 15 February 2020 in Melbourne, Victoria, in accordance with clause 2.1(i) of the City's Policy No. 4.1.15 – *Conferences*; and
- 2. NOTES** that Cr Hallett will cover all expenses associated with his attendance at the National Climate Emergency Summit.

PURPOSE OF REPORT:

To consider Cr Hallett's attendance on behalf of the City of Vincent (City) at the National Climate Emergency Summit to be held in Melbourne on 14 – 15 February 2020 (Summit).

BACKGROUND:

The purpose of the Summit is to convene practitioners, advocates, governments, youth leaders, and industry innovators from across Australia to explore what a climate emergency transition could look like at a local, national and global level. The Summit has the following strategic priority areas:

- Climate emergency impact;
- Safe climate protection;
- Full scale transition; and
- Building societal will.

The Summit will be held at the Melbourne Town Hall and has a two day program featuring 100 speakers with expertise in science, government, politics, social change, strategy and business, media and advocacy. The Summit will include panel discussion, workshops and debates which tackle the political, economic, technical and social change dimensions of creating a full scale response to the climate emergency. To date, 28 local governments have declared a climate emergency.

DETAILS:

As set out in the City's Sustainable Environment Strategy 2019 - 2024, which was adopted by Council on the 23 July 2019, the City supports taking action on climate change because in addition to the environmental harms, the social and financial impacts of climate change affect every part of the community.

The City's Policy No. 4.1.15 – *Conferences* (Policy) provides that "*when it is considered desirable that the City of Vincent be represented at an interstate conference, up to a maximum of one Elected Member and one Employee may normally attend, unless otherwise approved by the Council.*"

In accordance with clause 2.1(i) of the Policy interstate conference attendance requires approval by Council. Clause 3 of the Policy sets out conferences costs which the City will cover, including the airfares, registration and accommodation. Cr Hallett has offered to cover all costs associated with attending, including his airfares, accommodation and the ticket price.

Clause 5.1 of the Policy provides that attendees of a conference with a duration of two or more days must submit a report to Council (to be included on the Information Bulletin) within 30 days of their return to Perth, summarising the proceedings, major points of interest to the City and any recommendations.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

City's Policy No. 4.1.15 – *Conferences*

RISK MANAGEMENT IMPLICATIONS:

Low: Approving Cr Hallett's attendance at the Summit is in accordance with the City's Policy.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's *Strategic Community Plan 2018-2028*:

Innovative and Accountable

Our community is aware of what we are doing and how we are meeting our goals.

SUSTAINABILITY IMPLICATIONS:

A City representative attending the Summit aligns with the objectives and priorities of the City's Sustainable Environment Strategy 2019 – 2024.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.