

**9.5 NORTHBRIDGE ENTERTAINMENT PRECINCT - AMENDMENT NO. 41 TO CITY OF PERTH  
CITY PLANNING SCHEME NO. 2**

- Attachments:**
1. **Amendment No. 41 including Option B**
  2. **Noise Modelling – Amendment No. 41 & Option B**
  3. **City of Vincent Draft Submission - Amendment No. 41 to the City of Perth City Planning Scheme No. 2**

**RECOMMENDATION:****That Council:**

1. **ENDORSES** the City's submission on Amendment No. 41 to City of Perth, City Planning Scheme No. 2 included as Attachment 4; and
2. **NOTES** that Administration will forward the submission to the City of Perth.

**PURPOSE OF REPORT:**

For Council to consider the City's submission on Amendment No. 41 to the City of Perth, City Planning Scheme No. 2 (CPS2).

**BACKGROUND:**

The City of Perth, at its [Special Council Meeting on 4 December 2019](#), resolved to initiate Amendment No. 41 to the CPS2 to create a Special Control Area (SCA) and establish the Northbridge Special Entertainment Precinct (SEP).

Amendment No. 41 proposes changes to the CPS2 which involves:

- The creation of a Special Entertainment Precinct which contains a Core Entertainment Area and Frame Entertainment Area, as drafted [here](#);
- Adoption of precinct-wide design and construction standards for new residential development, entertainment venues and short-stay accommodation to reduce the impact on health and amenity of residents;
- Capping maximum noise levels at 95dB in the Core Entertainment Area and 79dB in the Frame Entertainment Area. There would be a grandfather clause for existing entertainment venues in the Frame Area to emit 90dB; and
- In the event of a noise complaint lodged regarding alleged unreasonable noise, sound levels would be measured at the venue instead of at the receiving premises (i.e. residence where a complaint is made from).

The proposed scheme amendment would also trigger amendments to the *Environmental Protection (Noise) Regulations 1997* (the Noise Regulations), which would enable entertainment venues to apply for a Venue Approval to operate at the Scheme levels.

The State Government has given approval for the City of Perth to advertise Amendment No. 41. The Western Australia Planning Commission (WAPC) issued their approval on 3 February 2020 and the Environmental Protection Authority (EPA) on 6 April 2020.

Consultation was undertaken earlier this year on a state-wide approach which involved the following two papers:

1. WAPC Draft Position Statement: Special Entertainment Precincts; and
2. Department of Water and Environmental Regulation (DWER) 'Managing Amplified Music Noise in Entertainment Precincts' Consultation Paper.

The City of Vincent's submissions were endorsed at the [Ordinary Meeting of Council on 11 February 2020](#) and contained the following wording:

*“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 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.”*

In response to the consultation the Department of Planning, Lands and Heritage (DPLH) and DWER have worked collaboratively to refine the reforms. This included DWER commissioning Lloyd George Acoustics to produce a ‘[Low Frequency Music Noise Prediction](#)’ report. This report highlights that City of Vincent properties would be impacted by the proposed scheme amendment in the City of Perth.

Outcomes of consultation resulted in DPLH providing ‘Option B’ for the City of Perth to consider. At their [Ordinary Meeting of Council on 29 September 2020](#) the City of Perth resolved to undertake public consultation of Amendment No. 41 including an alternative Option B. A visual summary of the two options are detailed in **Attachment 1**.

#### **DETAILS:**

Option B contains an expanded Core Entertainment Area, a transition area between the Core and Frame, and a reduction in the capped maximum noise level to 90dB in the Core Entertainment Area. The provisions to allow for existing entertainment venues in the Frame Area to emit noise at Core Area levels, would be deleted from the scheme.

Both proposals, being Amendment No. 41 and ‘Option B’, would impact City of Vincent properties as demonstrated in the noise modelling scenarios shown in **Attachment 2**. This attachment shows a 67db contour line for both Amendment No. 41 (blue dashed line) and Option B (yellow dashed line), which predicts the properties that could be affected by unreasonable noise from the respective proposal. Up to 3,500 residents/owners in Vincent could be affected by Amendment No. 41. The impact of Option B would affect less properties as the Core Area has a lower capped maximum sound level.

#### Existing noise sensitive receivers in the City

Amendment No. 41 and Option B both propose to permit the emission of sound levels in excess of the assigned levels of the Noise Regulations.

DWER has advised some Vincent residents could receive higher sound levels than the noise modelling shown in Attachment 3, given the typical construction of single dwellings in this area is not consistent with the assumptions the modelling was based on. For example, the assumed glazing on apartments in the City of Perth is 10.38mm glass while some City of Vincent properties are more likely to be constructed with glazing of 6.38mm or less.

Retro-fitting sound attenuation measures to existing noise-sensitive premises may assist in protecting the health and amenity of the resident but would impose a cost on the building owner. This could also present an issue for properties included on the City’s Municipal Heritage Inventory which may not have the ability to be upgraded to attenuate the noise. This is because there would be limitations on structural modifications that could be made to a heritage listed dwelling or building, not consistent with the attenuation measures required to achieve effective noise transmission loss.

The City’s submissions in response to the two State consultation papers in February 2020 sought guidance and feedback from the WAPC and DWER on how this may be adequately addressed. The City is continuing to liaise with relevant agencies to address concerns on behalf of existing residences, as a formal response has not yet been provided.

Administration considers that imposing a cost on the receiver to attenuate to a ‘new level of acceptable noise’ (as would likely be the case should a scheme amendment progress) is contradictory to a principle of

the *Environmental Protection Act 1986* where the 'polluter pays'. This is "those who generate pollution and waste should bear the cost of containment, avoidance or abatement".

A limitation of the 'Low Frequency Music Noise Prediction' report outlined above is that it has only modelled existing venues within the precinct and does not predict 'worst case scenario' given new venues can enter the SCA and emit noise. It does not consider cumulative noise of new noise sources.

#### Impact on new development

As part of the Northbridge Entertainment Precinct proposal, DWER engaged acoustic consultants Gabriels Hearne Farrell in 2019 to prepare a report to evaluate the design and construction implications for new development within the scheme area. The report – '[Evaluation of Residential Building Attenuation](#)', surmises that the effective limit for emission of sound in a SCA should be 70dB at 125Hz and 79db at 63Hz (low frequency noise). This provides for the protection of the health and amenity of new noise sensitive receivers, whilst maintaining technical and economic feasibility in the design and construction of new buildings. The proposed 'Core' of Amendment No. 41 and Option B both exceed this level. This has effectively ruled out new noise sensitive development in the Core.

Depending on the outcome of the CPS2 scheme amendment, additional construction requirements to attenuate low frequency (bass) noise may be required for City of Vincent properties, potentially increasing construction costs of new development by more than 7 percent. Without implementing such controls, noise sensitive developments in Vincent may receive sound levels in excess of those consistent with the protection of health and amenity. Controls may come in the form of an amendment to the City of Vincent's Local Planning Scheme and/or development of a local planning policy to ensure new development in impacted areas have suitable development control.

#### Amendments to the Noise Regulations

Proposed amendments to the Noise Regulations have not yet been released by DWER. This is required to enable an amendment of this nature to the City of Perth CPS2 to take effect. It is likely to see the inclusion of a 'Venue Approval' for which entertainment premises within an SCA could apply. Permitted sound levels for those approvals would be set consistent with those in the Scheme. Entertainment premises that hold a Venue Approval would then be exempt from the requirement to comply with the assigned levels of the Noise Regulations.

This would have a flow on effect to the way noise complaints against entertainment venues in a SCA are investigated. It would see compliance being measured at the noise emitter, rather than what the current practice is, by measuring at the receiver. If the measured levels are compliant at the venue (within the City of Perth SCA), no further action would be required even if the levels are higher than the assigned levels set for the noise receiving premises (which may be in Vincent).

#### Submission to City of Perth

Administration has prepared a submission included as **Attachment 3**. The submission indicates the City's support for the amendment, only with the modifications that are detailed in Option B.

Amendment No. 41 without modifications would affect significantly more residents, including many who live in heritage listed properties which could not be attenuated from noise.

#### **CONSULTATION/ADVERTISING:**

The City of Perth is advertising Amendment No. 41 to CPS2 from 23 October 2020 to 23 December 2020. Officers at the City of Perth sought advice from Administration regarding advertising to residents of the City of Vincent impacted by the proposal.

Administration advised that it was most suitable to advertise to all properties within the 67dB contour (blue dashed line as shown in Attachment 3). All properties within this catchment were sent correspondence by the City of Perth seeking their feedback on the scheme amendment.

The City of Perth has a dedicated page on their 'Engage Perth' platform. There is also a dedicated page on the Vincent website, linking to Engage Perth. The City has not yet been contacted by affected residents.

**LEGAL/POLICY:**

- *Planning and Development Act 2005;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- *Environmental Protection (Noise) Regulations 1997;*
- *City of Perth – City Planning Scheme No. 2;*
- *City of Vincent – Local Planning Scheme No. 2; and*
- *Local Planning Policy No. 7.5.21 – Sound Attenuation.*

**RISK MANAGEMENT IMPLICATIONS**

Low: It is low risk for Council to provide a submission to inform the outcome of Amendment No. 41 to City of Perth, CPS2.

**STRATEGIC IMPLICATIONS:**

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

*Enhanced Environment*

*We have minimised our impact on the environment.*

*Connected Community*

*An arts culture flourishes and is celebrated in the City of Vincent.*

*Thriving Places*

*We are recognised as a City that supports local and small business.*

*Sensitive Design*

*Our built form character and heritage is protected and enhanced.*

*Innovative and Accountable*

*We are open and accountable to an engaged community.*

**PUBLIC HEALTH IMPLICATIONS:**

Management of noise is a public health issue which is addressed in the Health Protection pillar of the Public Health Plan 2020-2025. The objective of this pillar is to deliver evidence based health protection services and programs for our community.

The City would liaise with other stakeholders to ensure future changes are supported by evidence to protect public health.

**FINANCIAL/BUDGET IMPLICATIONS:**

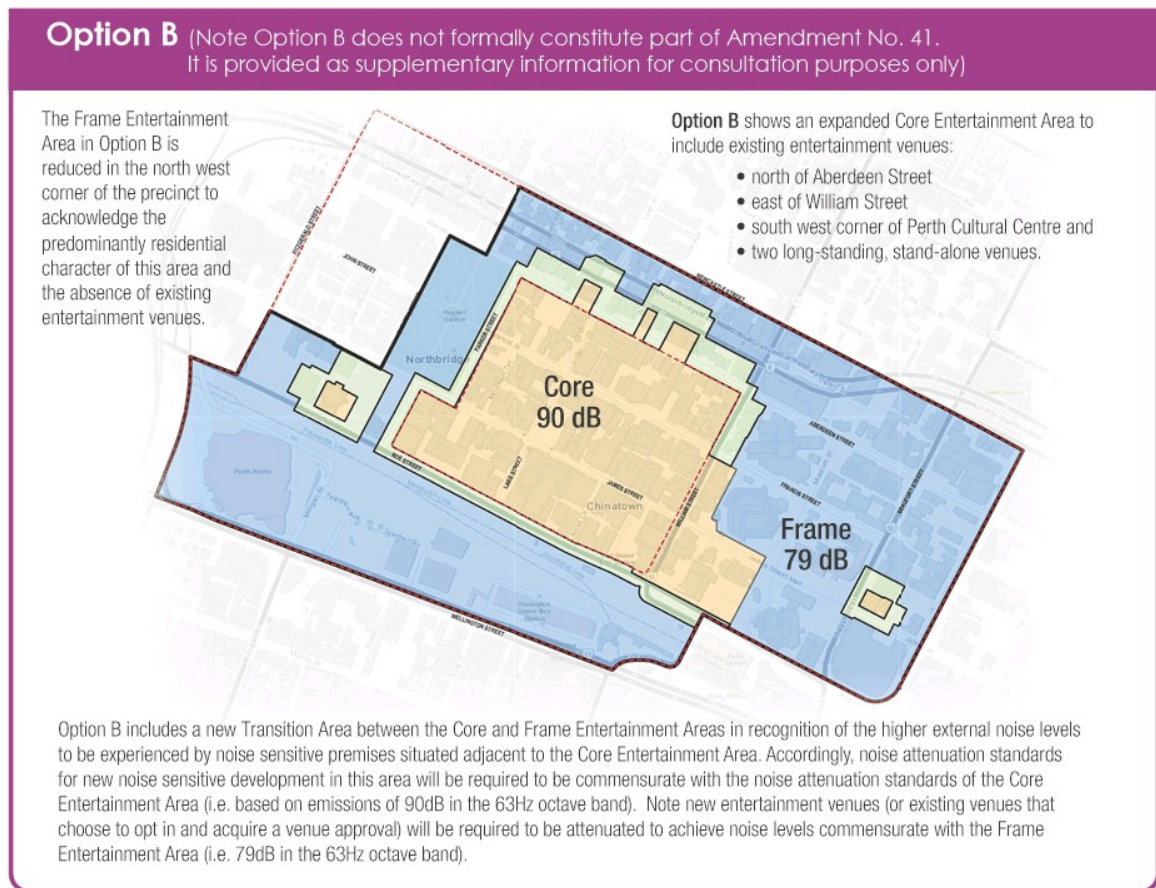
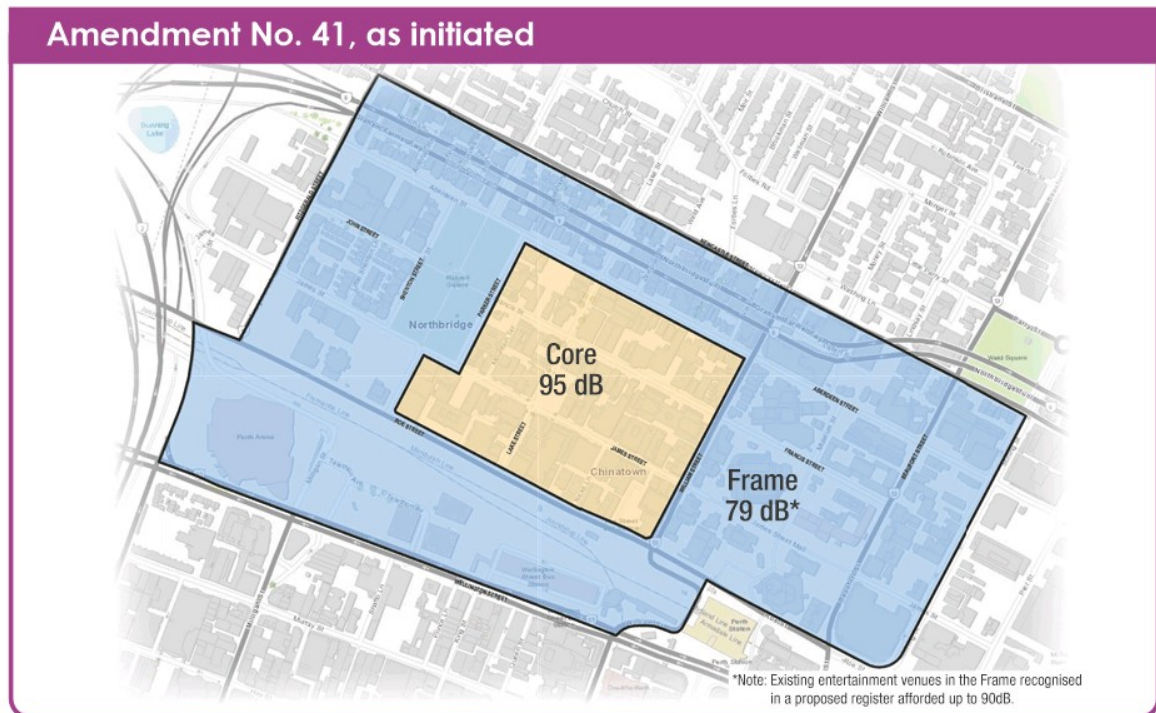
Nil.

**COMMENTS:**

Administration supports the modifications detailed in Option B of Amendment No. 41, on the basis that Amendment No. 41 without modification would affect significantly more Vincent residents. Once a decision is made by the City of Perth, the final determination on the CPS2 scheme amendment would be made by the Minister for Planning.

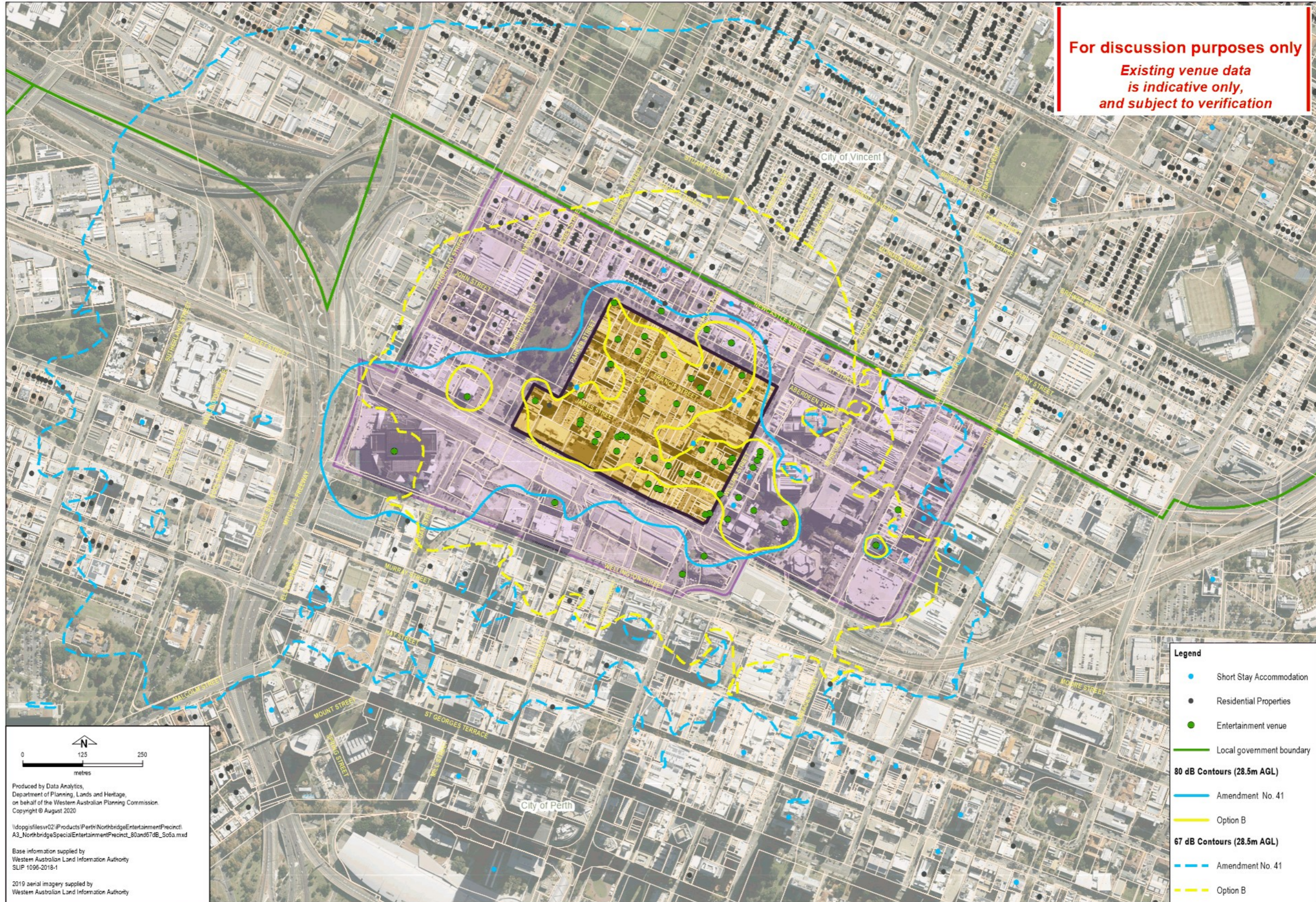


### KEY DIFFERENCES BETWEEN AMENDMENT NO. 41 AND OPTION B





Northbridge Special Entertainment Precinct



Noise Modelling Scenarios for Amendment No. 41 and Option B

Attachment H









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Our Reference: SC55-011 (D20/210421, D20/226754)



CITY OF VINCENT

16 December 2020

Western Australian Planning Commission  
140 William Street  
**PERTH WA 6000**

Dear Sir/Madam,

**NORTHBRIDGE ENTERTAINMENT PRECINCT – AMENDMENT NO. 41 TO CITY OF PERTH CITY PLANNING SCHEME NO. 2**

Thank you for providing the City with the opportunity to comment on the proposed Amendment No. 41 to the City of Perth City Planning Scheme No. 2. This matter was considered at the City's Ordinary Meeting of Council on 15 December 2020.

The City of Vincent's supports the amendment with the modifications that are detailed in Option B. This includes adjustments to the Core and Frame boundaries, inclusion of a Transition area and reduction in the maximum noise level in the Core Entertainment Area.

Amendment No. 41 without modifications is not supported by the City of Vincent, as up to 3,500 Vincent residents and property owners could be affected; compared to a significantly less number of residents based on noise modelling for Option B. Amendment No. 41 would encompass existing heritage listed properties in Vincent that would not be able to attenuate any increase in noise levels.

The City also supports a higher standard of building sound attenuation being required for new noise sensitive receivers, and new and existing entertainment venues. This is because it is a more effective outcome to mitigate noise through design and construction rather than ongoing operational management.

The formal submission to Amendment No. 41 is attached and contains some detailed comments on the amendment.

It is important to recognise the proximity of Vincent residents to the proposed Special Entertainment Precinct. Continued engagement with the City of Perth would be necessary to ensure the public health of residents in both local government areas is protected, while also achieving positive economic outcomes for Northbridge businesses.

If you have any questions please contact Tim Elliott, Senior Strategic Planning Officer on 9273 6528 or [tim.elliott@vincent.wa.gov.au](mailto:tim.elliott@vincent.wa.gov.au).

Yours sincerely,

Mark Fallows  
**A/EXECUTIVE DIRECTOR STRATEGY AND DEVELOPMENT**

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*Planning and Development Act 2005 Form No. 3A [Regs. 24(1)(a), 26(6)(a), 40(1)(a) & 49(1)(a)]*

The Chief Executive Officer of the City of Perth  
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**SUBMISSION ON  
LOCAL PLANNING SCHEME AMENDMENT  
TO CITY PLANNING SCHEME NO. 2**

**AMENDMENT NO. 41: NORTHBRIDGE SPECIAL ENTERTAINMENT PRECINCT**

**Name:** Mark Fallows  
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**State how your interests are affected, whether as a private citizen, on behalf of a company or other organisation, or as an owner or occupier of property.**

For and on behalf of the City of Vincent

**ADDRESS OF PROPERTY AFFECTED (if applicable). (Include lot number and nearest street intersection)**

Properties within the City of Vincent

**SUBMISSION (Provide your comments in full and any information to support them (attach additional pages if necessary)).**

Special Control Area

1. The City of Vincent (CoV) requests that a 'Transition Area' be included into the Special Control Area referenced in 28.1 of the scheme, according to the detail of 'Option B' as advertised.

Objectives

The CoV requests:

1. the CoP include an additional objective in the scheme amendment to ensure Heritage Listed properties and precincts are conserved.
2. that a 'Transition Area' is incorporated into the scheme according to the detail of 'Option B' as advertised.



Noise Attenuation Requirements

1. The CoV does not support the 'nominal amplified noise levels' referenced in 28.4.1 (a) and (b), according to 'Amendment 41'.
2. That should a scheme amendment progress, the CoV requests the Core Entertainment Area noise levels as advertised in 'Option B' are incorporated in replace of those existing in 'Amendment 41' being:

*That the extent of noise attenuation required for entertainment venues and noise sensitive premises shall be based on a nominal external amplified music noise level of LLEQ 90dB at the 63 Hz octave band and LLEQ 81dB in the 125 Hz octave band.*

3. That the CoV requests the Transition Area be included according to the detail of 'Option B' as advertised.

Within the Transition Area:

- (i) the extent of noise attenuation required for entertainment venues shall be based on a nominal external amplified music noise level of LLeq, 79 dB in the 63 Hz octave band and LLeq, 70 dB in the 125 Hz octave band;
  - (ii) the extent of noise attenuation required for noise sensitive premises shall be based on a nominal external amplified music noise level of LLeq, 90 dB in the 63 Hz octave band and LLeq, 81 dB in the 125 Hz octave band.
4. That the CoV request that the Frame Entertainment Area be defined as advertised in 'Option B', removing 28.4.1 (b) (ii) and (iii).

Requirement for Development Approval for Works

The CoV supports the need for planning approval for all premises.

Noise Sensitive Premises

1. The CoV has many heritage listed properties. Particularly of note is the Brookman Moir precinct. The City is concerned that if Amendment 41 proceeds as is, these properties would not be able to mitigate the impact of noise.
2. The CoV supports for all new noise sensitive premises within the Core, Transition Area and Frame to be designed and constructed to ensure the transmission loss is suitably attenuated to those 'nominal external amplified music noise levels' corrected as per 'Option B'.
3. The City supports 28.5 (c), (e) – (i), with amendments to the levels referenced in 28.5(a) and (b) in line with those of the advertised 'Option B'.

Entertainment Venues

1. The CoV supports 28.6 (a) 'mitigation through construction rather than on-going operational management'.
2. The City supports the need for entertainment venues within the Core, Transition Area and Frame to be designed and constructed to ensure the 'nominal external amplified music noise levels' are consistent with those as advertised in 'Option B'.
3. The City supports 28.6 (b) – (g), with amendments to the levels referenced in 28.6 (b) and (c) in line with those 'nominal external amplified music noise levels' corrected as per 'Option B'.

Outside the specifics of the scheme, the City requests that prior to progressing with any reforms, further consideration is given to existing noise sensitive receivers impacted by the proposed special control area and scheme amendment, particularly relating to heritage listed properties. This includes properties within the City of Vincent.

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. The City considers that imposing a cost on the receiver to attenuate to a 'new level of acceptable noise' (as will likely be the case should a Scheme Amendment progress) would be contradictory to a principle of the *Environmental Protection Act 1986* where the 'polluter pays'. As such, should recompense or compensation be considered in this respect, the City requests this be afforded to properties of the City of Vincent, impacted any amendment to the City of Perth City Planning Scheme No. 2.

The City looks forward to the response to the above comments.

If you have any questions please contact Tim Elliott, Senior Strategic Planning Officer on 9273 6528 or [tim.elliott@vincent.wa.gov.au](mailto:tim.elliott@vincent.wa.gov.au).

Yours sincerely,

Mark Fallows  
**A/EXECUTIVE DIRECTOR STRATEGY AND DEVELOPMENT**